

RANDY SWEENEY  
LEWIS AND CLARK COUNTY COURT

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DEPUTY

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10 **MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY**

11 THE STATE OF MONTANA,

12 Plaintiff,

13 vs.

14 CYNTHIA MAE HENDERSON,

15 Defendant.

Case No. ADC-2012-122  
Hon. Mike Menehan

**BRIEF IN SUPPORT OF REQUEST FOR  
RESTITUTION**

16 The State of Montana, by and through counsel, submits the following brief in support of its  
17 request that the Defendant be required to make restitution to the victim, Fire Insurance Exchange  
18 (FIE), as a condition of her sentence.

19 **INTRODUCTION**

20  
21 On May 29, 2013, the Defendant entered a plea of guilty to the offense of felony insurance  
22 fraud/theft. In so doing, the Defendant admitted to submitting a false receipt she had fabricated in  
23 support of an insurance claim for an alleged theft of personal property from her house. In fact, the  
24 State was prepared at trial to produce evidence of many false receipts in support of her claim and  
25 other false statements. The Defendant now asserts that her claim was valid, and, remarkably, that  
26 FIE will stipulate to this at the sentencing hearing. FIE and the National Insurance Crime Bureau  
27 (NICB) do not agree that the Defendant's claim was valid. In fact, FIE and the NICB reported the  
28

1 claim and the Defendant's fraud to the Insurance Department of the Office of the Commissioner of  
2 Securities and Insurance, Montana State Auditor.

3 From August 15, 2000, through January 8, 2008, the Defendant's home was insured by a  
4 homeowner's policy against various perils, including theft. During that time, the policy issuer, FIE,  
5 bore the risk against those perils. During that time, the Defendant received the benefit of her bargain  
6 under the insurance contract.

7  
8 By entering into the insurance contract, the Defendant agreed not to commit insurance fraud  
9 according to the following policy language: "**Concealment or Fraud**. The entire policy is void if  
10 any insured has knowingly and willfully concealed or misrepresented any material fact or  
11 circumstance relating to this insurance before or after the loss." (*emphasis in original*) (Exhibit 1).

12  
13 Insurance policies with similar language are known as voidable contracts which are "VALID  
14 CONTACT[S] that can be canceled for cause by one or more parties to the contract. An insurance  
15 contract can be voided by the insurer if the insured has used fraudulent means to obtain it or has  
16 intentionally concealed information or misrepresented the risk." *Dictionary of Insurance Terms*, p.  
17 553 (Harvey W. Rubin, fourth ed., Barron's 2000). Likewise, a voidable contract is "[o]ne which is  
18 void as to [the] wrongdoer but not void as to the wronged party. . ." *Black's Law Dictionary*,  
19 p. 1574 (Sixth ed., West 1990).

20  
21 Thus, in a voidable contract, the unbound party may disaffirm the insurance contract, but  
22 performance is required of the bound party. Here, the Defendant received the unjust enrichment of  
23 claim payment to which she was not entitled as a result of her fraud.

24  
25 The Defendant argues that this Court should not impose restitution, and that there be no  
26 consequences for her crime. While it is said that, "[b]etween those who are equally in the right or  
27  
28

1 equally in the wrong, the law does not interpose[,]” but, that is not the case here. Mont. Code Ann.  
2 § 1-3-215.

3 In order to prevent injustice, the insurance contract must be enforced. To comport with  
4 equity, unjust enrichment must be prevented. The benefits that the Defendant received under the  
5 insurance contract must be disgorged. Defendant deprived the victim, FIE, of the benefit of their  
6 bargain by committing insurance fraud. Defendant must pay restitution.  
7

### 8 **FACTS**

9 In 2005, Defendant vacated her residence located at 1239 Montana Highway 282, in Clancy,  
10 Montana, and left the state. Defendant’s residence was insured by a Special Form Homeowner’s Policy  
11 (Policy) issued by FIE. FIE is a member company of Farmers Insurance Group of Companies. It does  
12 not appear, at any time subsequent to 2005, that Defendant occupied the dwelling or otherwise  
13 maintained it as a residence. At all times material hereto, all contact between the Defendant and FIE  
14 was through telephone or cell phone, fax, and mail. At all times material hereto, the Defendant  
15 purported to be out of the state of Montana.  
16  
17

18 On May 1, 2007, the Defendant called FIE to initiate a claim for alleged break-ins and  
19 thefts of personal property from her home on two separate occasions. On both occasions the alleged  
20 thefts were discovered by Defendant’s relatives. The first occasion purportedly occurred at some time  
21 prior to its alleged discovery on October 21, 2006, and the second occasion was purported to have  
22 occurred at some time prior to its alleged discovery on April 23, 2007. The Defendant reported to FIE  
23 that several items of personal property had been taken from the home.  
24

25 The first alleged theft was reported to the Jefferson County Sherriff’s Department by an associate  
26 of the Defendant. A Jefferson County Sheriff deputy investigated the 2006 occurrence and generated an  
27 incident report, but no sheriff report was generated because the deputy could not establish that a theft  
28

1 occurred. The second alleged occurrence was never reported to the Jefferson County Sheriff at the time  
2 of discovery, no report was generated, and FIE did not pay out on the second claim for those reasons.

3 On May 2, 2007, the claims were assigned to Gary Rankin (Rankin), an adjuster for FIE, who  
4 works out of Helena, Lewis and Clark County, Montana. Rankin was the Defendant's primary contact  
5 with FIE. On the same date, Rankin took a statement from the Defendant over her cell phone.  
6

7 On May 3, 2007, Rankin conducted a field inspection of the Defendant's property. On May 4,  
8 2007, Rankin requested the Defendant to provide him with copies of the sheriff reports, and names and  
9 addresses of the Defendant's relatives that she mentioned in her statement to Rankin the previous day.

10 On August 13, 2007, Defendant faxed completed Proof of Loss forms and contents worksheets to FIE.  
11 This fax did not include the names and addresses of the relatives that the Defendant had mentioned  
12 previously, nor did it include the sheriff reports as requested.  
13

14 On August 17, 2007, in a telephone conversation with the Defendant, Rankin, again, asked  
15 the Defendant to provide sheriff reports, and names and addresses of the Defendant's relatives. On  
16 September 27, 2007, in a telephone conversation with the Defendant, Rankin questioned the Defendant's  
17 claimed losses, requested documentation and proof of claimed losses, and requested to re-inspect the  
18 house. Defendant promised to provide documentation and stated that she no longer owned the house but  
19 had lost it in foreclosure. On the same date, Rankin contacted the FIE Special Investigative Unit (SIU).  
20

21 On October 16, 2007, the SIU noted that the following issues relating to the Defendant's  
22 claims warranted further investigation: (1) delayed reporting; (2) two separate theft losses; (3) the  
23 Defendant had not lived in the residence since February of 2005; (4) possible financial distress  
24 (Defendant lost her business, and lost the residence due to foreclosure); and (5) the police were not  
25 contacted on the second theft. Additionally, FIE decided to do an examination of the Defendant under  
26 oath.  
27  
28

1 The claim was delayed for several months due to the Defendant's failure to provide  
2 supporting documentation requested by FIE including sheriff reports, photographs, and witness  
3 statements. The claim was also delayed twice by the Defendant rescheduling her examination under  
4 oath (once the Defendant claimed she was in the hospital because she was bit by a snake, and the other  
5 time the Defendant claimed that she was in the hospital because she was bit by a spider).

7 The Policy provided for replacement cost settlement on certain property relating to Defendant's  
8 theft claim. However, the policy also provided that until the Defendant repaired or replaced the  
9 damaged or stolen property, the loss would be paid at its Actual Cash Value, subject to coverage limits  
10 and the policy deductible. Actual Cash Value is represented by the total estimate for damages, which, in  
11 this case, was \$47,684.78, less recoverable depreciation in the amount of \$23,422.72, less amount over  
12 limits in the amount of \$1,829.82, *to wit*: \$22,432.24.

14 On July 21, 2008, under a reservation of rights under the terms, conditions, or provisions of the  
15 Policy, FIE paid the Defendant \$170.00 for alleged property damage to the dwelling. (Exhibits 2 and 4).  
16 Additionally, on August 26, 2008, under a reservation of rights under the terms, conditions, or  
17 provisions of the Policy, FIE paid the Defendant \$22,432.24, representing an Actual Cash Value  
18 payment for the alleged loss due to theft pursuant to the Policy. (Exhibits 3 and 4). One of the rights  
19 reserved by FIE under the Policy was a provision that voided the entire policy in the event that the  
20 Defendant knowingly and willfully concealed or misrepresented any material fact or circumstance  
21 relating to the insurance before or after the loss. (Exhibit 1).

24 Under the Policy, the Defendant could replace any of the allegedly stolen items and make an  
25 additional claim for the replacement cost of the items. Under the Policy, the Defendant was entitled to  
26 recover the amount of the withheld depreciation or the cost incurred, whichever was less. FIE set a one-  
27

1 year deadline for making a supplemental claim for replacement or recoverable depreciation of the items  
2 of personal property which were alleged to have been stolen.

3 On June 26, 2009, the Defendant submitted a supplemental claim for items of personal  
4 property she had allegedly replaced. Defendant supplied several receipts for the allegedly replaced  
5 personal property. Rankin submitted the matter to FIE's SIU because it appeared to him that the  
6 receipts were fraudulent. FIE's SIU agreed that the receipts appeared fraudulent and submitted the  
7 matter to the NICB. The NICB, in turn, submitted a fraud referral to the CSI.  
8

9 The CSI's investigation concluded that receipts in support of Defendant's supplemental claim  
10 were fabricated for several reasons including, but not limited to, the following: (1) eleven of the thirteen  
11 receipts appeared to have been produced by the Defendant in standard Word format; (2) only two of the  
12 receipts appeared to be from recognized retailers; (3) several of the businesses did not exist at the  
13 addresses that were given; and (4) two of the Montana individuals (one Defendant's friend, and the other  
14 Defendant's family member) who allegedly sold items to the Defendant provided sworn affidavits that  
15 they did not provide the receipts submitted by the Defendant to FIE or sell the items to the Defendant.  
16 The value of the Defendant's supplemental claim was \$23,102.72.  
17  
18

## 19 LAW AND ARGUMENT

### 20 Fire Insurance Exchange is Entitled to Full Restitution.

21 The Defendant should be required to make full restitution to FIE as a condition of her  
22 sentence. According to statute, "a sentencing court shall, as part of the sentence, require an offender  
23 to make full restitution to any victim who has sustained pecuniary loss, including a person suffering  
24 an economic loss." Mont. Code Ann. § 46-18-241.  
25

26 FIE is a "person" as defined in § 33-1-202(3). Moreover, FIE is a victim. "Victim" is  
27 defined, in part, as a person who suffers loss of property . . . as a result of the commission of an  
28

1 offense.” § 46-18-243(2)(a)(i)(A). “Pecuniary loss” is defined, in part, as all special damages, but  
2 not general damages, substantiated by evidence in the record, that a person could recover against the  
3 officer in a civil action arising out of the facts or events constituting the offender’s criminal  
4 activities. . .” § 46-18-243(1)(a).

5  
6 In relation to the Defendant’s claim, FIE paid, under a reservation of rights, \$170.00 for the  
7 claimed vandalism, and \$22,432.24 for the claimed theft of personal property. So, FIE suffered a  
8 total pecuniary loss of \$22,602.24 in relation to the Defendant’s admittedly fraudulent claim. In  
9 accord with the fraud voiding language of the Policy the Policy is void as against the Defendant  
10 because she was admittedly fraudulent in her claim with FIE. FIE’s civil remedy is restitution under  
11 the terms of the contract and the doctrine of unjust enrichment. Therefore, FIE is entitled to a return  
12 of the money paid on the Defendant’s fraudulent claim.  
13

14 After pleading guilty to fraud, in her brief on this issue, the Defendant now protests her  
15 innocence claiming that her claim of loss was “valid” and that FIE will so stipulate at the sentencing  
16 hearing. In fact, FIE reported the claim as fraud to the NICB who in turn referred the claim to the  
17 Office of the Commissioner of Securities and Insurance, Montana State Auditor, as a fraud referral.  
18

19 In *State v. Borsberry*, the Supreme Court held that an insurance company that sustains an  
20 economic loss as a result of insurance fraud is a “victim” entitled to restitution. 2006 MT 126, 332  
21 Mont. 271, 136 P.3d 993; *see also Tyler v. Fireman’s Fund Ins. Co.* 255 Mont. 174, 178, 841 P.2d  
22 538, 541 (1992). In *Borsberry*, the Defendant’s insurance policy had a voiding provision for  
23 fraudulent claims, the insurance company paid the Defendant’s claim under a reservation of rights,  
24 the Defendant was convicted of insurance fraud, and the trial court was affirmed in ordering the  
25 Defendant to pay restitution . *Id.*  
26  
27  
28

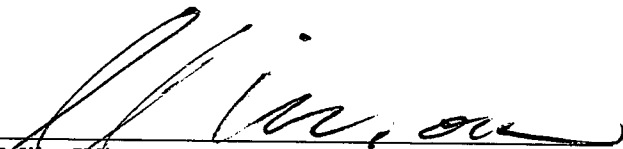
1 Here, the Defendant's policy had a voiding provision for fraudulent claims, FIE paid the  
2 Defendant's claim under a reservation of rights, and the Defendant has pled guilty of insurance fraud  
3 for her fraudulent claim. The Defendant should be ordered to pay restitution.  
4

5 The Defendant's reliance on *National Sur Corp. v. Michigan Fire & Marine Ins. Co. of*  
6 *America* is misplaced. 59 F. Supp. 493 (D. Minn. 1944). The two fires in *National Sur. Corp*  
7 involved two separate claims for fire damage on two separate losses or occurrences the second fire  
8 being caused by arson. Here, the fraud relates to one claim of loss arising from the same occurrence.  
9

### 10 CONCLUSION

11 For the foregoing reasons, the State submits that the Defendant should be ordered to pay  
12 restitution to the victim of her fraud.

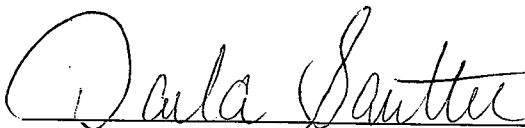
13 DATED this 11<sup>th</sup> day of September, 2013.  
14

15  
16   
17 Mike Winsor  
18 Special Assistant Attorney General  
19 Special Assistant Lewis and Clark County Attorney

### 20 CERTIFICATE OF SERVICE

21 The undersigned hereby certifies that this 11<sup>th</sup> day of September, 2013, a true and correct  
22 copy of the foregoing was served upon the following by United States mail, postage paid and  
23 addressed as follows:  
24

25 Torger Oaas  
26 Attorney at Law  
27 618 West Main, Ste. 201  
28 P. O. Box 76  
Lewistown, MT 59457







**FARMERS**

**Specialized Processing Operations  
Document Retrieval and Retention Department**

**Certified Record of Policy Reconstruction**

**Date: FEBRUARY 11, 2010**

**Insured: CYNTHIA HENDERSON**

**Policy Number: 70 91441-16-39**

**Claim Number: 1010087773**

**Date of Loss: OCTOBER 21, 2006**

The pages attached and provided pursuant to your document request apply to the above-referenced policy. The policy has a term of 12 months, effective August 15, 2006 to August 15, 2007.

Any additional Declaration Sheet(s) included with these documents labeled as "change or change- misc." may reflect a mid-term change in the policy and therefore a time period less than the original policy term, however the dates reflect the most current policy information on file, up to and including the date of loss for the above-referenced claim.

Document Retrieval and Retention Department  
Pocatello Specialized Operations  
Email: [Poca.doc.retrieve@farmersinsurance.com](mailto:Poca.doc.retrieve@farmersinsurance.com)  
Pocatello, ID

**EXHIBIT**

**1**



# FARMERS

## SPECIAL FORM HOMEOWNERS

FIRE INSURANCE EXCHANGE, LOS ANGELES, CALIFORNIA

A Reciprocal Company

## DECLARATIONS

HOMEOWNERS

Replaces all prior Declarations, if any

**TRANSACTION TYPE: CHANGE MISC.-RECONSTRUCTED COPY FOR COVERAGE VERIFICATION ONLY**

The Policy Period is effective (not prior to time applied for) at described residence premises.

POLICY NUMBER	POLICY PERIOD			POLICY EDITION
91441-16-39	FROM:	TO:	STANDARD TIME	
	08-15-2006	08-15-2007	12:00 NOON	04

ISSUING OFFICE:

P.O. BOX 4820

POCATELLO, ID 83205

This policy will continue for successive policy periods, if: (1) we elect to continue this insurance, and (2) if you pay the renewal premium for each successive policy period as required by our premiums, rules and forms then in effect.

### INSURED'S NAME & MAILING ADDRESS:

CYNTHIA HENDERSON

LOCATION OR DESCRIPTION OF RESIDENCE PREMISES:  
(Same as mailing address unless otherwise stated.)

1239 HWY 282 MCR  
CLANCY, MT  
59634-

### DESCRIPTION OF PROPERTY

YEAR OF CONSTRUCTION	CONSTRUCTION TYPE	ROOF TYPE	NUMBER OF UNITS	OCCUPANCY
1996	LOG HOME	SHEET METAL PANEL	001	OWNER

**COVERAGES** - We provide insurance only for those coverages indicated by a specific limit or other notation.

SECTION I - PROPERTY				SECTION II - LIABILITY		ANNUAL PREMIUM
A. DWELLING OR MOBILE HOME	B. SEPARATE OTHER STRUCTURES	C. PERSONAL PROPERTY	D. LOSS OF USE	E. PERSONAL LIABILITY	F. MEDICAL PAY TO OTHERS	
\$225,000	\$22,500	\$157,500	\$67,500	\$300,000 Each Occurrence	\$1,000 Each Person	\$1,721.97

### ENDORSEMENTS

ENDORSEMENT NUMBER	EDITION NUMBER	DESCRIPTION
E4040A	1ED	ENDORSEMENT AMENDING SECTION II - EXCLUSION
E6044A	3ED	BUILDING ORDINANCE OR LAW COVERAGE ENDORSEMENT
E6018A	2ED	AMENDING DEBRIS REMOVAL COV AND POL EXCLUSION
E4207	1ED	EXCLUSION AMENDING SECTION II - LIABILITY
E6120	2ED	CONTENTS REPLACEMENT COST COVERAGE
H6104A	2ED	AMENDING SECTION I LOSSES NOT INSURED - WATER DAMAGE
H6106	1ED	SPECIAL LIMITS ON SPORTS CARDS
H6221A	1ED	ENDORSEMENT AMENDING SECTION II - EXCLUSIONS
S7013	1ED	MONTANA CONFORMITY WITH STATUTES
258533	1ED	INVESTIGATIVE PRACTICES AND PROTECTION OF YOUR PRIVACY
		IMPORTANT NOTICE - ADDITIONAL ENDORSEMENTS SHOWN ON BACK

### DISCOUNTS

NEW HOME, AUTO/HOME, NON SMOKER, AND HOME SECURITY DISCOUNTS HAVE BEEN APPLIED TO YOUR POLICY.

### DEDUCTIBLES

\$500 Deductible is applicable to covered losses under Coverage A, B, C.  
THE FOLLOWING DEDUCTIBLE(S) APPLIES TO THE PERILS NAMED:  
WINDSTORM/HAILSTORM: \$1,000

### POLICY ACTIVITY

\$	Previous Balance	
	Premium	
	Fees	
	Payments or Credits	
\$	Total	
	MORTGAGEE PAYS	

ANY "TOTAL" BALANCE OR CREDIT \$7.00 OR LESS WILL BE APPLIED TO YOUR NEXT BILLING. BALANCES OVER \$7.00 ARE DUE UPON RECEIPT.

This Declarations page is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

AGENT: Brian M. Coleman

AGENT PHONE: (406) 443-8884 AGENT NUMBER: 70 11 324

Countersignature

Authorized Representative

Additional Premises Section II - Purpose of use is residential, unless stated otherwise.	Outboard Motor over 25 horsepower (Singly or Combined) - Section II MOTOR A: MOTOR B:
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**MESSAGES**

<p>ASK YOUR FARMERS AGENT ABOUT MORTGAGE PROTECTION.</p> <p>MORTGAGEE PAYS PREMIUM.</p> <p>IN THE EVENT OF A LOSS, AT ANY TIME, CALL US AT 1-800-HELPPPOINT (1-800-435-7764)</p>
--

<p><b>MORTGAGEE OR OTHER INTEREST:</b> UNAVAILABLE</p> <p><b>MORTGAGEE'S BILLING ADDRESS:</b> UNAVAILABLE</p>	<p><b>ADDITIONAL MORTGAGEE OR OTHER INTEREST(S):</b></p>
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**ADDITIONAL ENDORSEMENTS**

S7000A      4ED      SPECIAL STATE PROVISIONS - MONTANA



FARMERS

## Your Special Form Homeowners Package Policy

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This policy is a legal contract between you (the policyholder) and us (the Company).  
IT CONTAINS CERTAIN EXCLUSIONS.

READ YOUR POLICY CAREFULLY.

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INTENTIONALLY BLANK.**

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## AGREEMENT

We will provide the insurance described in this policy. In return you will pay the premium and comply with all policy conditions.

## DEFINITIONS

Throughout this policy, "you" and "your" mean the "named insured" shown in the Declarations and spouse if a resident of the same household. "We," "us" and "our" mean the Company named in the Declarations which provides this insurance. In addition, certain words appear in bold type. They are defined as follows:

1. **Actual Cash Value** - means replacement cost of the property at the time of loss, less depreciation.
2. **Aircraft** - means any device used or designed for flight including self-propelled missiles and spacecraft, except model or hobby aircraft not used or designed to carry people or cargo.
3. **Annual aggregate limit** - means the total amount we will pay for all **occurrences** which happen in each 12 month period, beginning with the inception date of this policy, regardless of the number of such **occurrences**.
4. **Bodily injury** - means bodily harm, sickness or disease, including care, loss of services and death resulting from that injury.
5. **Business** - means any full or part-time trade, profession or occupation.
6. **Business property** - means property pertaining to or intended for use in **business**.
7. **Earthquake** - means shaking or trembling of the earth, whether caused by volcanic activity, tectonic processes or any other cause.
8. **Earth Movement** - means movement of earth, including, but not limited to the following:
  - a. **earthquake**, landslide or mudflow, all whether combined with **water** or not.
  - b. collapse, settling, cracking, shrinking, bulging, subsidence, erosion, sinking, rising, shifting, expanding, or contracting of earth, all whether combined with **water** or not.
  - c. volcanic eruption, including explosion, lava flow and volcanic action.
9. **Insured** - means you and the following persons if permanent residents of your household:
  - a. your relatives,
  - b. anyone under the age of 21,Under Section II - Liability, **insured** also means:
  - c. any **person** or organization legally responsible for animals or watercraft owned by you, or anyone included in 9a or 9b, and covered by this policy. Any **person** or organization using or having custody of these animals or watercraft in the course of any **business** or without permission of the owner is not an **insured**.
  - d. any **person** while employed by you or anyone in 9a or 9b with respect to any vehicle covered by this policy.
10. **Insured location** - means:
  - a. the **residence premises**;
  - b. any other premises you acquire during the policy period for use as a residence;
  - c. that part of any other premises shown in the Declarations which you use as a residence;
  - d. any premises you use in connection with the premises included in 10a, 10b or 10c.
  - e. that part of a premises not owned by any **insured** but where an **insured** is temporarily residing.
  - f. that part of a premises occasionally rented to any **insured** for non-**business** purposes.
  - g. vacant land, other than farm land, owned by or rented to any **insured** and shown in the Declarations.
  - h. land owned by or rented to you and on which you are building a one or two family dwelling to be used as your residence.
  - i. cemetery plots or burial vaults of an **insured**.
11. **Motor vehicle** - means:
  - a. a motorized land vehicle, including a trailer, semi-trailer or motorized bicycle, designed for travel on public roads.
  - b. any vehicle while being towed or carried on a vehicle described in 11a.
  - c. any other motorized land vehicle designed for recreational use off public roads.

None of the following is a **motor vehicle**.

- a. a motorized golf cart while on the golf course and used for golfing purposes.
- b. a motorized land vehicle, not subject to **motor vehicle** registration, used only on an **insured location**.
- c. any watercraft or camp, home or utility trailer *not* being towed or carried on a vehicle described in 11a.

12. **Nuclear hazard** - means nuclear reaction, radiation, radioactive contamination, or any result of these. This includes the negligent, defective or improper design, construction or maintenance of a nuclear facility, or any other act or omission which results in a **nuclear hazard**.
13. **Occurrence** means an accident including exposure to conditions which results during the policy period in **bodily injury** or **property damage**. Repeated or continuous exposure to the same general conditions is considered to be **one occurrence**.

**Occurrence** does not include accidents or events which take place during the policy period which do not result in **bodily injury** or **property damage** until after the policy period.

14. **Person** or **persons** - means and includes you and any other individual, group, corporation, company, firm, association, partnership, trust, estate or governmental body, or any other legal entity.
15. **Property Damage** - means physical injury to or destruction of tangible property covered by this policy and resulting loss of use.
16. **Residence Employee** - means an employee of an **insured** whose duties pertain to the ownership, maintenance, or use of the **residence premises**. This includes the performance of household domestic services, or the performance of similar duties elsewhere which do not pertain to **business** pursuits of an **insured**.
17. **Residence Premises** - means the one or two family dwelling and separate structures or that part of any other building where you reside, and which is shown in the Declarations. Under Section II - Liability, **residence premises** includes the grounds on which the dwelling and separate structures are located.
18. **Water** - means water (H<sub>2</sub>O) alone, whether frozen or not or any liquid or sludge which contains **water**, whether or not combined with other chemicals or impurities.
19. **Water damage** - means loss caused by, resulting from, contributed to or aggravated by any of the following, whether occurring on or away from the **residence premises**:
- a. **Water** from rain or snow, surface **water**, flood, waves, tidal **water**, overflow or escape of a body of **water**, or spray from any of these, whether or not driven by wind;
  - b. **water** which backs up through sewers or drains;
  - c. **water** which escapes from any system designed to drain **water** away from the dwelling or **residence premises**, including but not limited to roof gutters, downspouts, sump-pumps, sump-pump wells, leach fields, seepage pits, septic tanks or drainage channels;
  - d. **water** below ground level whether occurring naturally or not, including **water** which exerts pressure on, or seeps or leaks through a building, sidewalk, driveway, wall, foundation, swimming pool or any portion of the **residence premises**.

## SECTION I - PROPERTY

### Coverages

#### Coverage A - Dwelling

We cover:

1. The dwelling, including attached structures, on the **residence premises** used principally as your private residence.
2. Material and supplies on or adjacent to the **residence premises** for use in construction of the dwelling or other structures on the **residence premises**.

Wall-to-wall carpeting attached to the dwelling is part of the dwelling.

We do not cover land or the value of land, including land on which the dwelling is located, or the cost to restore, replace, repair or rebuild land. If a covered loss causes damage to the dwelling and to the land on the **residence premises** we do not cover any increased cost to repair or rebuild the dwelling because of damage to the land.

#### Coverage B - Separate Structures

We cover other structures on the **residence premises** separated from the dwelling, or connected to the dwelling by only a fence, utility line, sidewalk, driveway, patio or similar connection.

Wall-to-wall carpeting attached to the structure is part of the structure.

We do not cover land or the value of land, including land on which the separate structure is located or the cost to restore, replace, repair or rebuild land. If a covered loss causes damage to a separate structure and to the land on the **residence premises**, we do not cover any increased cost to repair or rebuild the separate structure because of damage to the land.

We do not cover separate structures which are intended for use in **business** or which are actually used in whole or in part for **business** purposes.

### **Coverage C - Personal Property**

We cover personal property owned or used by an **insured** while it is anywhere in the world. At your request after a loss we will also cover personal property:

- a. owned by others while the property is on the part of the **residence premises** occupied by an **insured**. However, property of tenants not related to the **insured** is not covered.
- b. owned by a guest while the property is in any residence occupied by an **insured**.
- c. owned by and in the physical custody of a **residence employee** while in the service of an **insured** anywhere in the world.

### **Special Limits On Certain Personal Property**

The limits shown below do not increase the Coverage C limit of insurance shown in the Declarations. The limit for each numbered group is the total limit for any one loss for all property in that group.

1. \$1,000 or 10% of Coverage C limit (whichever is greater) on personal property usually located at an **insured's** residence, other than the **residence premises**.

This limit does not apply to personal property in a newly acquired principal residence for 45 days after moving begins.

2. \$100 on money, bank notes, medals, coins, bullion, platinum, gold and silver other than goldware and silverware, and collections of all such property.
3. \$500 on securities, accounts, deeds, evidences of debt, letters of credit, notes other than bank notes, manuscripts, passports, tickets and stamp collections.
4. \$500 on watercraft, and windsurfers including their trailers, furnishings, equipment and outboard motors.
5. \$500 on trailers not used with watercraft.
6. \$500 on theft of jewelry, watches, precious and semi-precious stones, and furs including articles for which fur represents the principal value.
7. \$2,500 on theft of silverware, goldware and pewterware, including articles for which such metal represents the principal value.
8. \$1,000 on theft of firearms.
9. \$2,500 on theft of any rugs or carpets which were made or manufactured in whole or in part outside of the United States, even if such items are considered artwork or used as decoration.
10. \$200 on **business property**, except for the property described in item 11 below.
11. \$5,000 on electronic data processing equipment and accessories including recording or storage media used with such equipment and accessories whether or not it is **business property**; however, if it is **business property**, the equipment or media must be located on the **residence premises** at the time of loss to qualify for this coverage. Recording or storage media for electronic data processing that cannot be replaced with other of like kind and quality on the current retail market is not covered.

### **PERSONAL PROPERTY NOT COVERED**

We do not cover:

1. Personal property separately described and specifically insured in this or any other policy;
2. Animals, birds or fish;
3. **Motor vehicles**, including their parts or accessories while in or on any **motor vehicle**.



4. Any sound equipment operated from the electrical system of any **motor vehicle**, motorized land conveyances, watercraft, camp or home trailers while such equipment is in, on, or installed in a **motor vehicle**, motorized land conveyance, watercraft, camp or home trailer. This equipment includes: citizen band radios, radio or cellular telephones, radio transceivers, radio transmitters, two-way mobile radios, scanning monitor receivers, radar detectors, car radio receivers, tape or disc players and recorders and any accessories or antennas, or any tapes, discs, reels, cassettes, cartridges, carrying cases or other devices used with such sound equipment.
5. **Aircraft**, including their parts or equipment.
6. Property in an apartment on the **residence premises** which is regularly rented or held for rent to others by an **insured**.
7. Property away from the **residence premises** rented or available for rent to others by an **insured**.

#### COVERAGE D - LOSS OF USE

The limit of insurance for Coverage D is the total limit for all the following coverages:

1. **Additional Living Expense.** If a covered property loss makes the **residence premises** unfit to live in, we cover the necessary increase in living expense incurred by you so that your household can maintain its normal standard of living. We pay for the shortest time needed to (a) repair or replace the damaged property, or (b) permanently relocate, but in no event for more than 12 months.
2. **Loss of Rents.** If a covered property loss makes that part of the **residence premises** rented to others or held for rental by you unfit to live in, we cover the loss of rents less any expense that does not continue during the loss period. We pay for the shortest time needed to (a) repair or replace the damaged property, or (b) permanently relocate the rental premises, but in no event for more than 12 months. Loss of rents due to cancellation of a lease or agreement is not covered.

The time period in 1 and 2 above is not limited by expiration of this policy.

3. **Prohibited Use.** If a civil authority prohibits you from use of the **residence premises** because of direct damage to neighboring premises by a loss which would have been covered under SECTION I - PROPERTY if it occurred on the **residence premises**, we cover the resulting additional living expense or loss of rents for not more than two weeks during which use is prohibited.

No deductible applies to 1, 2, or 3 above.

#### ADDITIONAL COVERAGES

1. **Debris Removal.** We pay for reasonable debris removal expense following a loss covered under SECTION I - PROPERTY. If the amount of loss, including debris removal expense, exceeds the limit of insurance, we pay up to an additional 5% of the limit of insurance of the damaged property.
2. **Emergency Repairs.** We pay the cost you incur for necessary emergency repairs made solely to protect covered property from further damage if a loss covered under SECTION I - PROPERTY causes the damage. This coverage does not increase the limit of insurance applying to the property being repaired.
3. **Trees, Shrubs, Plants and Lawns.** We cover trees, shrubs, plants and lawns on the **residence premises** for loss caused by the following perils: fire or lightning, explosion, riot or civil commotion, aircraft, vehicles not owned or operated by any **insured**, vandalism and theft. Property grown for **business** purposes is not covered.

The limit of insurance, including debris removal, for any one loss will not exceed 5% of the limit applying to the dwelling, nor more than \$500 for any one tree, shrub or plant. This coverage is in addition to the limit applying to the dwelling.

4. **Fire Department Service Charge.** We pay up to \$500 as an additional amount of insurance for service charges made by a fire department when called to protect covered property from an insured loss. In no event will we pay more than \$500 in charges resulting from any one service call. No deductible applies to this coverage.
5. **Emergency Removal of Property.** We pay for direct loss from any cause to covered property:
  - a. while being removed from a premises endangered by a loss covered under LOSSES INSURED, and
  - b. while removed for not more than 30 days from the date of removal.

This coverage does not change the amount of insurance applying to the covered property.

6. *Credit Card, Fund Transfer Card, Forgery and Counterfeit Money.* We pay up to \$1,000 as an additional amount of insurance for loss to an **insured** caused by:

- a. theft or unauthorized use of credit or fund transfer cards issued to an **insured**.
- b. forgery or alteration of a check or other negotiable instrument.
- c. acceptance in good faith of counterfeit United States or Canadian paper money.

No deductible applies to a, b or c above.

We do not cover:

a. **business** pursuits or dishonest acts of any **insured**.

~~b. use of any card by a resident of your household or any person entrusted with any card if an insured has not met the terms under which such card is issued.~~

Defense of a claim or suit against any **insured** or any **insured's** bank for liability under this coverage:

- a. We may investigate and settle any claim or suit we consider proper. Our duty to defend any claim or suit ends when we pay a loss equal to the limit of insurance.
- b. We will defend at our expense and with attorneys of our choice a claim made or suit brought against any **insured** for payment under Credit or Fund Transfer Card Coverage.
- c. At our option and expense we may defend the **insured** or the **insured's** bank against a suit to enforce payment under Forgery Coverage.

7. *Collapse of Buildings.* We cover accidental direct physical loss to covered property covered in A and B if caused by collapse which occurs due to:

- a. weight of ice, snow, sleet or rain which collects on a roof;
- b. weight of people, contents or equipment while on a roof.

## **LOSSES INSURED**

### **Coverage A - Dwelling**

### **Coverage B - Separate Structures**

We insure for accidental direct physical loss to property described in Coverage A and B, except as provided in **Section I - Losses Not Insured**.

### **Coverage C - Personal Property**

We insure for accidental direct physical loss to property described in Coverage C, but only if caused by one or more of the following perils:

1. Fire or lightning.
2. Windstorm or hail. This peril does not include loss to property contained in a building if the loss is caused by rain, snow, sleet, sand or dust unless the direct force of wind or hail damages the building causing an opening in a roof or wall and the rain, snow, sleet, sand or dust enters through this opening.

This peril includes loss to watercraft and their trailers, furnishings, equipment and outboard motors but only while inside a fully enclosed building.

3. Explosion.
4. Riot or civil commotion, including direct loss from looting.
5. Aircraft.
6. Vehicles.
7. Smoke, if loss is sudden and accidental.
8. Vandalism.
9. Theft, including attempted theft and loss of property from a known location when it is likely that the property has been stolen.

Personal property placed in these locations for safekeeping is considered to be on the **residence premises**: banks, trust or safe deposit company, public warehouse or an occupied dwelling not owned, occupied or rented to an **insured**.

This peril does not include loss caused by theft:

- a. committed by any **insured**;
- b. committed by any **person** regularly residing on the **insured location**. However, theft committed by a **residence employee** is covered;
- c. in or to a dwelling under construction or of construction materials and supplies until the dwelling is completed and occupied;
- d. from any part of a **residence premises** rented to others;
- e. at any other dwelling or premises owned, occupied by or rented to any **insured** unless an **insured** is temporarily residing there. Property of a student **insured** is covered at a residence away from home if the student has been there at any time ~~45~~ days before the loss,
- f. of watercraft and their equipment, campers and trailers away from the **residence premises**.

Theft does not include property taken by someone who claims a right to such property under a written or oral agreement with any **insured** unless a court rules that a theft did occur.

10. Falling objects. This peril does not include loss to property contained in a building unless the roof or an outside wall of the building is first damaged by a falling object. Damage to the falling object itself is not included. This peril does not include loss caused by objects which fall as a result of any loss excluded under **SECTION I - LOSSES NOT INSURED**.
11. Weight of ice, snow or sleet which causes damage to property contained in a building.
12. Collapse of a dwelling or any part of a dwelling, if the collapse itself was caused by a loss not excluded under **SECTION I - LOSSES NOT INSURED**.
13. Sudden and accidental discharge or overflow of **water** or steam from within a plumbing, heating or air conditioning system, or from within a household appliance, but not for deterioration, rust, mold, wet or dry rot due to the presence of **water**.

This peril does not include loss:

- a. to the system or appliance from which the **water** or steam escaped;
  - b. caused by or resulting from freezing;
  - c. to personal property on the **residence premises** when the sudden and accidental discharge or overflow occurs away from the **residence premises**;
  - d. caused by sudden and accidental discharge or overflow from roof gutters, downspouts, sump-pumps, sump-pump wells, leach fields, seepage pits, septic tanks, drainage channels or any other device used to drain **water** away from the **residence premises**.
14. Sudden and accidental tearing apart, cracking, burning or bulging of a steam, hot water or air conditioning system, or appliance for heating **water**.

This peril does not include loss caused by or resulting from freezing.

15. Freezing of a plumbing, heating, air conditioning system or household appliance.

This peril does not include loss on the **residence premises** while the dwelling is unoccupied *unless* you have used reasonable care to:

- a. maintain heat in the building, or
  - b. shut off the **water** supply and drain the system and appliance of **water**.
16. Sudden and accidental damage from artificially generated electrical current.

This peril does not include loss to a tube, transistor, microchip or similar electronic component.

## **SECTION I - LOSSES NOT INSURED**

Applying to **Coverage A and B - Dwelling and Separate Structures** and **Coverage C - Personal Property**

We do not insure for loss either consisting of, or caused directly or indirectly by:

### **1. Earth Movement.**

Acts or omissions of **persons** can cause, contribute to or aggravate **earth movement**. Also, **earth movement** can occur naturally to cause loss, or combine with acts or omissions of **persons** to cause loss. Whenever **earth movement** occurs, the resulting loss is always excluded under this policy, however caused; except we do cover direct loss by fire or explosions resulting from **earth movement**.

The following examples are set forth to help you understand this exclusion and are not meant to be all-inclusive.

**EXAMPLE 1:**

Rain falls on soil inadequately compacted or maintained by a builder, neighbor or you. As a result, **earth movement** occurs, causing loss to the dwelling or personal property. Such loss is not covered by this policy.

**EXAMPLE 2:**

Cracks occur in your dwelling or separate structure because it is built on natural or fill soil which is expansive and the dwelling or structure is not designed or constructed to withstand the soil movement. Such loss is not covered under this policy.

**EXAMPLE 3:**

**Water** leaks from a pipe which causes settling, and the settling causes loss to the dwelling, separate structure, or personal property. Such loss is not covered by this policy, regardless of the cause or causes of the **water** leak.

**2. Water damage.**

Acts or omissions of **persons** can cause, contribute to or aggravate **water damage**. Also **water damage** can occur naturally to cause loss or combine with acts or omissions of **persons** to cause loss. Whenever **water damage** occurs, the resulting loss is always excluded under this policy, however caused; except we do cover direct loss to the dwelling, separate structures, or personal property if caused by fire or explosion resulting from **water damage**.

The following examples are set forth to help you understand this exclusion and are not meant to be all-inclusive.

**EXAMPLE 1:**

Rain **water** collects on or soaks into the ground surface. Because of faulty design, construction or maintenance of the **residence premises**, your neighbor's property or **water** diversion devices, the **water** causes loss to the dwelling, separate structure, or personal property. Such loss is not covered by this policy.

**EXAMPLE 2:**

A pipe under your sink breaks, and **water** damages your wallpaper, carpeting and personal property. The **water** also gets under the dwelling or separate structure causing **earth movement** which results in cracking of the foundation and walls. The loss to the wallpaper, carpeting and personal property is covered, but the loss to the foundation and walls is not covered by this policy.

**EXAMPLE 3:**

**Water** which has backed up through sewers or drains, or **water** below ground level causes loss to the dwelling, separate structure or personal property. Such loss is not covered by this policy, regardless of the cause or causes of such **water damage**.

**3. Nuclear Hazard.**

Acts or omissions of **persons** can cause, contribute to or aggravate **nuclear hazard**. Also, **nuclear hazard** can occur naturally to cause loss, or combine with acts or omissions of **persons** to cause loss. Whenever **nuclear hazard** occurs, the resulting damage is always excluded under this policy, however caused; except we do cover direct loss by fire resulting from **nuclear hazard**.

In items 4-13 below, acts or omissions of **persons** can cause, contribute to or aggravate the losses set forth. Also, these losses could occur naturally or combine with acts or omissions of **persons**. Whenever the losses listed in items 4-13 occur, any resulting loss is always excluded, however caused, unless specifically indicated otherwise.

4. Faulty, inadequate or defective planning, zoning, development, surveying, siting, design, specifications, workmanship, construction, grading, compaction, maintenance repair materials, construction, remodeling, or maintenance of part or all of any property (including land, structures or any improvements) whether on or off the **residence premises**. However, we do cover ensuing loss by fire, explosion or sudden and accidental discharge of **water**. **Earth movement** is never covered under this policy, however caused.
5. Enforcement of any ordinance or law regulating construction, repair or demolition of a building or other structure, unless endorsed to this policy.  
We do cover loss caused by order of civil authorities to prevent the spread of fire from a covered loss.
6. Interruption of power or other utility service which originates off the **residence premises**. If a covered loss ensues **on** the **residence premises** we pay only for loss caused by the ensuing peril.

7. Neglect of an **insured** to use all reasonable means to protect covered property at and after the time of loss, or when property is endangered by a covered loss under **SECTION I - Property Coverage**.
8. War, including undeclared war, civil war, insurrection, rebellion, revolution or warlike act by military personnel. Discharge of a nuclear weapon shall be deemed a warlike act even if accidental.
9. Freezing of and any resulting discharge, leakage or overflow from a plumbing, heating, air-conditioning system or household appliance while the dwelling is vacant or unoccupied *unless* you have used reasonable care to:
  - a. maintain heat in the building, or
  - b. shut off the **water** supply and drain the system and appliance of **water**.
- ~~10. Freezing, thawing or pressure of water or ice, whether wind driven or not to a fence, pavement, patio, swimming pool, foundation, retaining wall, bulkhead, pier, wharf or dock.~~
11. Theft in or to a dwelling under construction, or of construction materials if the dwelling has been vacant for more than 30 days just before the loss. A dwelling under construction is not considered vacant.
12. Vandalism, breakage of glass and safety glazing materials if the dwelling has been vacant for more than 30 days just before the loss. A dwelling under construction is not considered vacant.
13.
  - a. wear and tear, marring, deterioration;
  - b. mechanical breakdown;
  - c. birds, insects, vermin, rodents, or domestic animals;
  - d. rust, mold, wet or dry rot;
  - e. smog, smoke from agricultural smudging or industrial operations;
  - f. release, discharge or dispersal of contaminants, pollutants, insecticides, or hazardous gasses or chemicals;
  - g. any settling, cracking, shrinking, bulging, or expansion of pavements, patios, foundations, walls, floors, roofs or ceilings;
  - h. pressure from any root system to a foundation, patio, pavement, wall, driveway, or fence;
  - i. soil conditions, including but not limited to corrosion, erosion, chemicals, compounds, elements, suspensions or gels in the soil or the formation of crystals in the soil.

If any of the perils listed in a - i above cause **water** to escape suddenly and accidentally from a plumbing, heating, or air conditioning system or household appliance, we cover loss not otherwise excluded to the dwelling or separate structure caused by **water** but not for deterioration, rust, mold, wet or dry rot due to the presence of **water** over a period of time. If loss is caused by **water** or steam not otherwise excluded, we will cover the cost of tearing out and replacing any part of the dwelling or separate structure necessary to repair the system or appliance. We do not cover the system or appliance from which the **water** or steam escaped.

If any of the perils listed in a - i above cause a fire or explosion, we cover direct loss by such fire or explosion.

## **SECTION I - CONDITIONS**

### **1. Insurable Interest and Limit of Insurance.**

Even if more than one **person** has an insurable interest in the covered property, we pay the smallest of the following amounts.

- a. an amount equal to the **insured's** interest, or
- b. the applicable limit of insurance.

### **2. Your Duties After Loss.**

If a loss occurs, you will perform the following duties:

- a. give written notice to us or our agent without unnecessary delay. In case of theft, also notify the police. In case of loss under the Credit or Fund Transfer Card Coverage, also notify the issuer of the card.
- b. protect the property from further damage. Make any emergency repairs needed to protect the property from further damage. Keep records of repair costs.
- c. make a list of all damaged or destroyed personal property showing in detail the quantity, description, **actual cash value** and amount of loss. Attach all bills, receipts and related records that support your claim.

d. as often as we reasonably require:

- (1) exhibit damaged property.
- (2) provide us with records and documents we may request, including banking or other financial records, if obtainable and permit us to make copies.
- (3) submit to examination under oath and sign a transcript of same.

e. send us within 60 days after our request your signed sworn statement showing:

- (1) time and cause of loss,
- (2) interest of the **insured** and all others in the property involved,
- ~~(3) all legal claims against the property involved,~~
- (4) other insurance which may cover the loss,
- (5) changes in title or occupancy of the property during the term of the policy,
- (6) specifications and detailed repair estimates of any damaged building,
- (7) a list of damaged or destroyed personal property described in 2c,
- (8) receipts and records that support additional living expenses and loss of rents,
- (9) evidence which states the amount and cause of loss to support a claim under Credit or Fund Transfer Card, Forgery and Counterfeit Money Coverage.

### 3. *Loss Settlement.*

#### Buildings

Covered loss to Buildings under Coverage A and B will be settled by one of the following methods;

#### (1) **Actual Cash Value**

If you do not repair or replace at the same location shown in the Declarations the damaged or destroyed dwelling or separate structure, we will pay the smallest of the following:

- (a) the limit of insurance applying to the damaged or destroyed dwelling or separate structure.
- (b) the **actual cash value** of the damaged or destroyed dwelling or separate structure.

You may make a claim for an additional amount within 180 days after the loss on a replacement cost basis if the property has been repaired or replaced.

#### (2) **Replacement Cost.** If you repair or replace at the same location shown in the Declarations the damaged or destroyed dwelling or separate structure, we will pay without deduction for depreciation the smallest of the following amounts;

- (a) the limit of insurance under this policy that applies to the damaged or destroyed dwelling or separate structure;
- (b) the replacement cost of that part of the dwelling or separate structure damaged with equivalent construction and for use on the same premises.
- (c) the amount actually needed and spent to repair or replace the dwelling or separate structure intended for the same occupancy and use. However, if the cost to repair or replace is more than \$1,000 or more than 5% of the limit of insurance on the damaged or destroyed building, whichever is less, we will pay no more than the **actual cash value** until repair or replacement is completed.

#### **Property Other Than Buildings.**

Covered loss to the following types of property will be settled at **Actual Cash Value**:

- (1) Personal property and structures that are not considered buildings.
- (2) Carpeting, including wall-to-wall carpeting, domestic appliances, awnings, outdoor equipment and antennas, all whether or not attached to buildings.

Payment will not exceed the amount actually needed to repair or replace the damaged property, or the limit of insurance applying to the property, whichever is less.

#### 4. **Value Protection Clause.** We may increase the limit of insurance applying to Coverage A, B, C and D to reflect changes in costs of construction and personal property values. Any such increase will be made on the renewal date of this policy, or on the anniversary date of 3-year policies paid annually.

#### 5. **Other Insurance.** If this and other insurance both apply to the same loss, we will pay our share. Our share will be the amount that this insurance bears to the total limit of all insurance applying to the loss, collectible or not.

6. *Deductible Clause.* We pay for loss to covered property less the Deductible amount shown in the Declarations. The deductible shown applies separately to each loss.
7. *Loss to a Pair or Set.* We may elect to:
- a. repair or replace any part of the pair or set to restore it to its value before the loss, or
  - b. pay the difference between the **actual cash value** of the property before and after the loss.
- Loss to a part does not mean a total loss of the pair or set.
8. *Glass Replacement.* Glass damage caused by a loss covered under LOSSES INSURED will be replaced with safety glazing materials when required by law.
9. *Appraisal.* If you and we fail to agree on the amount of loss, either one may make a written demand for appraisal. Each party will choose an able and impartial appraiser and notify the other of the appraiser's name within 20 days after the demand is received. The appraisers will choose an impartial umpire. If the appraisers cannot agree upon an umpire within 15 days, you or we can ask a judge of a court of record in the state where the **residence premises** is located to choose an umpire.
- The appraisers will then set the amount of loss. If the appraisers submit a written agreement to us, the agreed amount will be the amount of loss. If the appraisers cannot agree, they will submit their differences to the umpire. A written agreement signed by any two will set the amount of loss.
- Each party will pay the appraiser it chooses. The umpire and all other expenses of the appraisal will be paid equally by you and us.
10. *Permission Granted.*
- a. The **residence premises** may be vacant or unoccupied without limit of time, except where this policy states otherwise.
  - b. You may make alterations, additions and repairs to the **residence premises** and complete structures under construction.
11. *Intentional Acts.* If any **insured** directly causes or arranges for a loss to covered property in order to obtain insurance benefits, this policy is void. We will not pay you or any other **insured** for this loss.
12. *Suit Against Us.* We may not be sued unless there has been full compliance with all the terms and conditions of this policy. Suit on or arising out of this policy must be brought within one year after the loss occurs.
13. *Our Options.* We may repair or replace the damaged property with equivalent property. We may also take all or part of the damaged property at the agreed or appraised value. We shall give you written notice of our intention within 30 days after receipt of your signed sworn statement of loss occurs.
14. *Loss Payment.* We will adjust all losses with you. We will pay you unless another payee is named in the policy. We will pay within 60 days after:
- a. we reach agreement with you, or
  - b. a court judgment, or
  - c. an appraisal award.
- A loss payment will not reduce the applicable limit of insurance.
15. *Abandoned Property.* We need not accept property abandoned by an **insured**.
16. *Mortgage Clause.* The word "mortgagee" includes trustee or loss payee. If a mortgagee is named in this policy, a covered loss will be paid to the mortgagee and you, as interests appear. If more than one mortgagee is named, the order of payment will be the same as the order of the mortgages.
- If we deny your claim, such denial will not apply to a mortgagee's valid claim if the mortgagee:
- a. knows and notifies us of any change of ownership, occupancy or substantial change in risk.
  - b. pays on demand any premium due if you have failed to do so.
  - c. submits a signed, sworn statement of loss within 60 days after we notify the mortgagee of your failure to do so.
- Policy conditions relating to *Other Insurance, Appraisal, Suit Against Us and Loss Payment* apply to the mortgagee.
- We will give the mortgagee 10 days notice before cancelling this policy.

If we pay the mortgagee for any loss and deny payment to you:

- a. we have right of recovery against any party responsible for the loss, or
- b. at our option, we may pay off the entire mortgage debt to the mortgagee. In this event, we receive full transfer of the mortgage.

A mortgagee's claim will not be impaired by transfer of a right of recovery.

17. **No Benefit to Bailee.** This insurance will not benefit any **person** or organization who may be caring for or handling property for a fee.

## **SECTION II - LIABILITY**

### **Coverages**

#### **Coverage E - Personal Liability**

We pay those damages which an **insured** becomes legally obligated to pay because of **bodily injury** or **property damage** resulting from an **occurrence** to which this coverage applies.

At our expense and with attorneys of our choice, we will defend an **insured** against any covered claim or suit. We are not obligated to pay defense costs, including attorneys' fees of any claim or suit where you select an attorney not chosen by us because there is a dispute between you and us over coverage. We may investigate and settle any claim or suit that we consider proper. Our obligation to defend any claim or suit ends once we have paid our limit of liability.

#### **Coverage F - Medical Payments To Others**

We will pay the necessary medical expenses for services furnished to a **person** other than you or any resident of your household within 3 years from the date of an **occurrence** causing **bodily injury**. Medical expenses mean reasonable charges for medical, surgical, x-ray and dental services, prosthetic devices, eyeglasses, hearing aids, pharmaceuticals, ambulance, hospital, licensed nursing and funeral services.

This coverage applies to:

- (a) **persons** on the **insured location** with permission of an **insured**; or
- (b) **persons** off the **insured location** if the **bodily injury**:
  - (1) is the result of a condition on the **insured location** or the adjoining ways;
  - (2) is caused by the activities of an **insured**;
  - (3) is caused by a **residence employee** in the course of employment by an **insured**;
  - (4) is caused by an animal owned by or in the care of an **insured**.

This coverage does not apply to **persons** injured as a result of their intentional acts.

### **Additional Coverages**

In addition to the limits of liability we pay the following:

#### **1. Claim Expenses.**

We pay:

- a. all costs we incur in the settlement of a claim or defense of a suit with attorneys of our choice.
- b. premiums on bonds required in a suit we defend, but not for bond amounts greater than the Coverage E limit of liability. We are not obligated to apply for or furnish a bond.
- c. reasonable expenses incurred by an **insured** at our request to help us investigate or defend a claim or suit. These include loss of earnings (but not other income) of up to \$60 per day.
- d. interest after entry of judgment on any amount that does not exceed our limit of liability.

#### **2. First Aid Expenses.** We pay necessary first aid expenses incurred by an **insured** at the time of an **occurrence** for **bodily injury** to others covered by this policy. We do not pay for first aid to you or any other **insured**.

#### **3. Damage to Property of Others.** At your request, we pay up to \$500 per **occurrence** for **property damage** to property of others caused by an **insured**. Coverage applies when an **insured** is not legally liable for the damage.



## SECTION II - EXCLUSIONS

### Applying To Coverage E - Personal Liability

We do not cover:

1. Liability of an **insured** assumed under any contract or agreement relating to a **business** of an **insured**. Liability of **persons** other than an **insured** assumed under any contract or agreement, whether **business** or non-business, is not covered. Liability of any agreement between an **insured** and a corporation or association of property owners is not covered.
2. Punitive or exemplary damages or the cost of defense related to such damages.
3. **Property damage** to property owned by an **insured** or any other resident of your household.
4. **Property damage** to non-owned property in the care, custody or control of an **insured**. We **do** cover such damage caused by Fire, Smoke or Explosion.
5. **Bodily injury** to any **person** if an **insured** has or is required to have a policy providing workers' compensation, occupational disease or non-occupational disability benefits covering the **bodily injury**.
6. **Bodily injury** to any resident of the **residence premises** except a **residence employee** who is not covered under Workers' Compensation or Employers' Liability Coverage.
7. **Bodily injury** or **Property Damage** when an **insured** is covered under any nuclear energy liability policy. This exclusion applies even if the limits of that policy have been exhausted.
8. Any loss, cost, or expense resulting from the clean-up, detoxification, or treatment of any site used by you or any **person** acting on your behalf for the disposal, storage, handling, processing or treatment of waste.

### Applying To Coverage F - Medical Payments To Others

We do not cover **bodily injury**:

1. To you or any resident of your **residence premises** except a **residence employee**.
2. To a **residence employee** who is off the **insured location** and not in the course of employment by an **insured**.
3. To any person eligible to receive benefits provided or mandated under any workers' compensation, occupational disease or non-occupational disability law.
4. Resulting from any **nuclear hazard**.

### Applying To Coverage E and F - Personal Liability and Medical Payments To Others

We do not cover **bodily injury** or **property damage** which:

1. arises from or during the course of **business** pursuits of an **insured**.

But we do cover:

- a. that part of a residence of yours which is rented or available for rent:
    - (1) on an occasional basis for sole use as a residence.
    - (2) to no more than two roomers or boarders for sole use as a residence.
    - (3) as an office, studio or private garage.
  - b. part-time services performed directly by an **insured** under age 21 who is a resident of your household.  
"Part-time" means no more than 20 hours per week.
2. results from the rendering or failure to render **business** or professional services.
  3. is either:
    - a. caused intentionally by or at the direction of an **insured**; or
    - b. results from any **occurrence** caused by an intentional act of any **insured** where the results are reasonably foreseeable.
  4. results from the legal liability of any **insured** because of home care services provided to any **person** on a regular basis by or at the direction of:

- a. any **insured**;
- b. any employee of any **insured**;
- c. any other **person** actually or apparently acting on behalf of any **insured**.

Regular basis means more than 20 hours per week.

This exclusion does not apply to:

- a. home care services provided to the relatives of any **insured**;
- b. occasional or part time home care services provided by any **insured** under 21 years of age.
- 5. results from an **insured** transmitting a communicable (including sexually transmitted) disease.
- 6. results from an existing condition on an uninsured location owned by or rented to an **insured**.
- 7. results from the ownership, maintenance, use, loading or unloading of:
  - a. **aircraft**
  - b. **motor vehicles**
  - c. jet skis and jet sleds or
  - d. any other watercraft owned or rented to an **insured** and which:
    - (1) has more than 50 horsepower inboard or inboard-outdrive motor power; or
    - (2) is powered by one or more outboard motors with more than 25 total horsepower; or
    - (3) is a sailing vessel 26 feet or more in length.

Exclusions 7c, and d do not apply while jet skis, jet sleds or watercraft are stored.

Exclusions 7a, b, c, and d do not apply to **bodily injury** to a **residence employee** in the course of employment by an **insured**.

- 8. results from the entrustment of any **aircraft**, **motor vehicles**, jet skis, or jet sleds to any **person**. Entrustment means the permission you give to any **person** other than you to use any personal **aircraft**, **motor vehicles**, jet skis, or jet sleds owned or controlled by you.
- 9. results from the entrustment of watercraft described in 7d above.
- 10. is caused directly or indirectly by war, including undeclared war, civil war, insurrection, rebellion, revolution, or warlike act by military personnel. Discharge of a nuclear weapon, whether or not accidental, is deemed a warlike act.
- 11. arises out of the sale or transfer of real property including but not limited to the following:
  - a. known or unknown property or structural defects;
  - b. known or hidden defects in the plumbing, heating, and electrical systems.
  - c. known or unknown soil conditions or drainage problems;
  - d. concealment or misrepresentation of any known defects.
- 12. arises out of any claim pertaining to the **insured location** which involves any agreement between any **insured** and a corporation or association of property owners.

### Applying To Additional Coverages

Under *Damage to Property of Others* we do *not* cover damage:

- a. to property covered under Section I of this policy.
- b. to property owned by or rented to an **insured**, a tenant of an **insured**, or any resident of your household.
- c. purposely caused by an **insured** 13 years of age or older,
- d. arising out of:
  - (1) **business** pursuits;
  - (2) any act or omission relating to a premises owned, rented or controlled by an **insured**, other than the **insured location**;
  - (3) the ownership, maintenance, loading or unloading or use of a **motor vehicle**, **aircraft**, jet ski, jet sled, or watercraft.

## SECTION II - CONDITIONS

1. **Limit of Liability.** The Limit of liability shown in the Declarations for Coverage E is the **Annual Aggregate Limit**. This is the most we will pay for all **occurrences** in each 12 month policy period regardless of the number of:

- a. **insureds**;
- b. claims made or suits brought; or
- c. **persons** or organizations making claims or bringing suits.

Subject to the **Annual Aggregate Limit**, the most we will pay under Coverage F for all medical expenses for **bodily injury to one person in any one occurrence** is the amount shown in the Declarations.-----

The amount of the **Annual Aggregate Limit** is the same as the per **occurrence** limit of Personal Liability as shown on the Declarations Page.

The **Annual Aggregate Limit** will be reinstated at each annual or anniversary date of this policy.

2. **Separate Insurance.** This insurance applies separately to each **insured**. This Condition does not increase our limit of liability for any one 12 month period.
3. **Duties After Loss.** In case of an **occurrence** the **insured** will perform the following duties:
  - a. give written notice to us or our agent as soon as possible stating:
    - (1) the policy number and name of **insured**.
    - (2) the time, place and circumstances of the **occurrence**.
    - (3) names and addresses of claimants and witnesses.
  - b. promptly send us any legal papers received relating to a claim or suit.
  - c. cooperate with and assist us in any matter relating to a claim or suit.
  - d. under Damage to Property of Others Coverage, send us a sworn statement of loss within 60 days of the loss. Also exhibit any damaged property which is within the **insured's** control.
  - e. the **insured** will not, except at the **insured's** own cost, voluntarily make any payment, assume any obligation or incur any expense except First Aid Expenses.
4. **Duties of an Injured Person - Coverage F - Medical Payments to Others.** The injured **person** or someone acting on behalf of the injured **person** will:
  - a. give us written proof of claim as soon as possible, under oath if required.
  - b. authorize us to obtain medical records and reports.

The injured **person** will submit to physical examination by a doctor we choose as often as we reasonably require.

5. **Payment of Claim - Coverage F - Medical Payments to Others.** Payment under this coverage is not an admission of liability by an **insured** or us.
6. **Suit Against Us.** We may not be sued unless there has been full compliance with the terms of this policy. No one has any right to make us a party to a suit to determine the liability of a **person** we insure. We may not be sued under Coverage E - Personal Liability until the obligation of the **insured** has been determined by final judgment or agreement signed by us.
7. **Bankruptcy of an Insured.** Bankruptcy or insolvency of an **insured** will not relieve us of our duties under this policy.
8. **Other Insurance - Coverage E - Personal Liability.** This insurance is excess over any other valid and collectible insurance. But if other insurance is specifically written as excess coverage over this policy, the limit of this policy applies first.

If other insurance is written by us, only the highest limit of any one policy applies to the loss.

## GENERAL CONDITIONS

### Applying To The Entire Policy

1. **Entire Contract.** This policy, the Declarations and any endorsements include all the agreements between you and us relating to this insurance.

2. **Policy Period.** This policy applies only to loss under Section I or **bodily injury** or **property damage** under Section II which occurs during the policy period as shown in the Declarations.
3. **Concealment or Fraud.** This entire policy is void if any **insured** has knowingly and willfully concealed or misrepresented any material fact or circumstance relating to this insurance before or after the loss.
4. **Coverage Changes.** We may change this policy or replace it to conform to coverage currently in use. If we broaden coverages without charge during or within 60 days prior to the policy period, the broadened coverage will apply immediately. If we restrict any coverages, these restrictions will not apply until the next renewal date. The change or new policy will be delivered to you or mailed to you at your mailing address shown on the Declarations at least 30 days before its effective date.

No other change or waiver in this policy is valid except by endorsement, new Declarations, or new policy issued by us.

If a premium adjustment is necessary, we will make the adjustment as of the effective date of the change.

5. **Cancellation.**

a. You may cancel this policy by:

- (1) returning it to us, or
- (2) notifying us in writing when cancellation is to take effect.

b. We may cancel this policy by mailing or delivering written notice to you, or your representative. Such notice will be mailed or delivered to the last address known to us. The mailing of it will be sufficient proof of notice.

**Cancellation Reasons**

We may cancel this policy only for the following reasons:

- (1) Non-payment of premium, whether payable to us or our agent. We may cancel at any time by notifying you at least 10 days before the date cancellation takes effect.
- (2) Any reason, when this policy has been in effect for less than 60 days and is not a renewal with us. We will notify you at least 10 days before the date cancellation takes effect.

If the policy period is longer than one year and has been in effect for 60 days or more we may cancel at the anniversary date for any reason. We will notify you at least 31 days before the cancellation takes effect.

- (3) If this policy has been in effect for 60 days or more, or at anytime if it is a renewal with us, we may cancel only for one or more of the following reasons.

- (a) You have been convicted of a crime having as one of its necessary elements an act increasing any hazard insured against.
- (b) Discovery of fraud or material misrepresentation by the **insured** or the **insured's** representative in either obtaining this policy or pursuing a claim under this policy.
- (c) Discovery of grossly negligent acts or omissions by the **insured** or the **insured's** representative which substantially increases any of the hazards insured against.
- (d) Physical changes in the insured property which result in its becoming uninsurable.

We will notify you in writing at least 31 days before the date cancellation takes effect.

c. **Return of Premium:**

Cancellation of or changes in this policy may result in a premium refund. If so we will send it to you within 31 days after the cancellation or change takes effect.

- (1) If you cancel this policy, we will return the short rate unused share of the premium.
- (2) If we cancel this policy, we will return the pro-rated unused share of the premium.

6. **Non-Renewal.**

We may elect:

- a. not to renew this policy; or
- b. to condition its renewal on a reduction of limits or a reduction or elimination of coverages.

We may do so by delivering to you, or mailing to you at your mailing address shown in the Declarations, written notice at least 30 days before the expiration date of this policy. The mailing of it will be sufficient proof of notice.

If this policy is written for a period of less than one year we agree not to refuse to renew except at the end of an annual period beginning with the original or renewal effective date.

7. **Assignment.** Your interest in this policy may not be transferred to another **person** without our written consent. If you should die, we cover:
- a. any member of your household who is an **insured** at the time of your death, but only while a resident of the **residence premises**.
  - b. your legal representative, but only with respect to your premises and property covered under the policy at the time of death.
  - c. any **person** having proper custody of your insured property until a legal representative is appointed.
8. **Subrogation.** An **insured** may waive in writing before a loss all rights of recovery against any **person**. If not waived, we may require an assignment of rights of recovery for a loss to the extent that payment is made by us. If we seek an assignment, an **insured** will help us to secure these rights and do nothing to impair them. Subrogation does not apply under Section 11 to Medical Payments to Others or Damage to Property of Others.
9. **Conflict of Terms.** If there are terms of this policy which conflict with laws of the state where issued, the terms are amended to conform to such laws.
10. **Policy Fees.** (Applies only if policy is issued in Mid-Century Insurance Company.) If you pay a Policy Fee it is fully earned when the policy is issued. It is not part of the premium. It is not returnable. However, you may apply it as a credit toward policy fees required for other insurance accepted by us.

### **RECIPROCAL PROVISIONS**

**(Applicable Only If This Policy Is Issued By The Fire Insurance Exchange Or Farmers Insurance Exchange)**

This policy is made and accepted in consideration of your premium payment to us. It is also in consideration of the power of attorney you signed as part of your application and the information you gave to us on your application. Some of your statements actually become a part of the policy which we call "The Declarations."

When you signed the power of attorney authority on your application, you authorized the Underwriters Association to execute interinsurance policies between you and other subscribers. Nothing in this policy is intended, or shall be construed, to create either:

1. A partnership or mutual insurance association.
2. Any joint liability.

We may sue or be sued in our own name, as though we were an individual, if necessary to enforce any claims which arise under this policy. In any suit against us, service of process shall be upon the Underwriters Association, Attorney-in-Fact.

Membership fees which you pay are not part of the premium. They are fully earned when you are granted membership and coverage is effective. They are not returnable. However, they may be applied as a credit to membership fees required of you for other insurance which we agree to write.

We hold the Annual Meeting of the members of the Fire Insurance Exchange at our Home Office at Los Angeles, California, on the first Monday following the 15th day of March of each year at 10:00 a.m. If this policy is issued by the Farmers Insurance Exchange, we hold such meeting at the same place on the same day each year at 2:00 p.m.

The Board of Governors may elect to change the time and place of the meeting. If they do so, you will be mailed a written or printed notice at your last known address at least ten (10) days before such a time. Otherwise, no notice will be sent to you.

The Board of Governors shall be chosen by subscribers from among yourselves. This will take place at the Annual Meeting or at any special meeting which is held for that purpose. The Board of Governors shall have full power and authority to establish such rules and regulations for our management as are not inconsistent with the subscriber's agreements.

Your premium for this policy and all payment made for its continuance shall be payable to us at our Home Office or such location named by us in your premium invoice.

The funds which you pay shall be placed to your credit on our records. They will be applied to the payment of your proportion of losses and expenses and to the establishment of reserves and general surplus. The Board of Governors or its Executive Committee has the authority to deposit, withdraw, invest, and reinvest such funds. You agree that any amount which the Board of Governors allocates to our surplus fund may be retained by us. Also after provision is made for all of our liabilities, it may be applied to any purpose deemed proper and advantageous to you and other policyholders.

This policy is non-assessable.

This policy shall not be effective unless countersigned on the Declarations Page by a duly authorized representative of the Company named on the Declarations.

The Company named on the Declarations has caused this policy to be signed by the Officers shown below.

**FIRE INSURANCE EXCHANGE®**

by Fire Underwriters Association,  
Attorney-in-Fact

**FARMERS INSURANCE EXCHANGE®**

by Farmers Underwriters Association,  
Attorney-in-Fact

**MID-CENTURY INSURANCE COMPANY®**

Farmers Insurance Company of Arizona

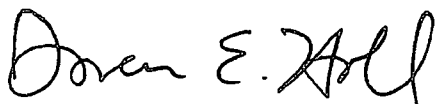
Farmers Insurance Company of Idaho

Farmers Insurance Company of Oregon

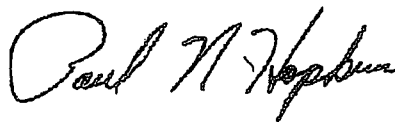
Illinois Farmers Insurance Company

~~Farmers Insurance Company, Inc.~~

Farmers Insurance of Columbus, Inc.



*Secretary*



*Vice President*

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**MONTANA CONFORMITY WITH STATUTES  
ENDORSEMENT**

**s7013**

**MONTANA  
1st Edition**

The provisions of this policy conform to the minimum requirements of Montana law and control over any conflicting statutes of any state in which you reside on or after the effective date of this policy.

Any provisions of this policy, including endorsements which modify the policy, that does not conform to the minimum requirements of a Montana statute is amended to conform to that statute.

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This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.



Dear Valued Customer:

We are revising S7000, 3rd Edition - Special State Provisions Endorsement to a 4th Edition. We are revising the amount of time required for cancellation and non-renewal of the policy from 30 days to 45 days. In the event we cancel or non-renew your policy, we will send you notification 45 days in advance.

If you have any questions regarding this change or any other insurance concerns, please contact your Farmers® agent.

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**SPECIAL STATE PROVISIONS - MONTANA**

**s7000A**  
**MONTANA**  
**4th Edition**

Under General Condition 5, Cancellation, no notice of cancellation is valid unless we notify you at least 45 days before cancellation takes effect.

Under General Condition 5, Cancellation Reasons, item (3) is deleted and replaced with the following:

(3) When this policy has been in effect for 60 days or more, or at any time if it is a renewal with us, we may cancel for the following reasons:

- (a) material misrepresentation of fact which if known to us would have caused us to decline to issue the policy;
- (b) a substantial change of risk since the policy was issued except to the extent that we should have reasonably foreseen the change or contemplated the risk in writing this policy;
- (c) substantial breach of contract, conditions or warranties;
- (d) determination by the Insurance Commissioner that we would be in violation of the Montana Insurance Code if we continued this policy;
- (e) our financial impairment;
- (f) any other reason approved by the Insurance Commissioner.

Under General Condition 6, Non-Renewal, "30 days" is revised to "45 days".

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

Dear Valued Customer:

Your policy does not cover personal injuries caused by an action of any insured that breaks a law or ordinance. Personal injury is also not covered if a law or ordinance is broken with the knowledge or consent of any insured. The attached endorsement adds that exclusion to your policy.

Please take a few moments to read the endorsement. If you have any questions, please contact your Farmers® agent.

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**ENDORSEMENT AMENDING SECTION II - EXCLUSIONS**

**H6221A**  
1st Edition

Under Exclusions Applying to Coverage E - Personal Liability, the following is added:

9. Personal injury caused by a violation of penal law or ordinance committed by or with the knowledge or consent of any insured.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

## SPECIAL LIMITS ON SPORTS CARDS

**H6106**

1st Edition

The following provisions apply when this endorsement is attached to your policy:

Under SECTION I, Coverage C - Special Limits On Certain Personal Property:

Item 12. is added as follows:

12. \$200 per card and \$1,000 in the aggregate on sports cards, including but not limited to baseball cards.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

Dear Valued Customer:

Endorsement H6104A, second edition, has been added to your policy. **THE CHANGES TO YOUR POLICY MADE BY THIS ENDORSEMENT, AND DESCRIBED BELOW, REDUCE COVERAGE PROVIDED BY YOUR POLICY.** Endorsement H6104A, second edition, applies to both the Protector Plus Package Policy and the Special Form Homeowners Package Policy. Please carefully read this notice, endorsement H6104A, second edition, and your policy to determine how ~~the endorsement changes your policy and the exact coverages now provided.~~

Endorsement H6104A, second edition, makes the following changes to both the Protector Plus Package Policy and the Special Form Homeowners Package Policy:

1. THE DEFINITION OF WATER HAS BEEN CHANGED. Under **DEFINITIONS**, item 18., the definition of **Water** is changed so that water is now defined to expressly include, but not be limited to, "dampness, vapor, condensation, moisture, steam and humidity."
2. THE DEFINITION OF **WATER DAMAGE** HAS BEEN CHANGED. Under **DEFINITIONS**, the definition of **Water Damage**, item 19. is expanded to include item 19.(e), "water which seeps, leaks, drips, escapes or is released out of any plumbing, heating or air conditioning system, or from within a household appliance, other than a sudden and accidental release of water."
3. THE WORD "STEAM" IS DELETED IN **SECTION I - LOSSES INSURED, Coverage C - Personal Property, ITEM 13**. The expanded definition of **water** now expressly references "steam."
4. THE **WATER DAMAGE EXCLUSION, WATER DAMAGE, ITEM 2. UNDER SECTION I - LOSSES NOT INSURED**, IS CHANGED. Previously, Endorsement H6104, first edition, was attached to your policy. Endorsement H6104, first edition, is no longer attached to your policy. Instead, Endorsement H6104A, second edition, replaces Endorsement H6104, first edition. The changes are summarized as follows:
  - The references to **mobile home** are deleted.
  - Endorsement H6104A, second edition, adds language to the **water damage** exclusion specifying that, "we never, under any circumstances, cover rust, mold, fungus, or wet or dry rot, even if resulting from exceptions 1, 2 or 3 above."
  - Endorsement H6104A, second edition, also changes **EXAMPLE 2** of the **water damage** exclusion by adding the words "suddenly and accidentally."
5. **ITEM 4. UNDER SECTION I - LOSSES NOT INSURED** HAS BEEN CHANGED. This Exclusion has been changed three ways. First, the clause "maintenance repair materials" is changed by Endorsement H6104A, second edition, to "maintenance, repairs, or materials." Second, Endorsement H6104A, second edition, adds the words "whether used in" before the phrase "construction, remodeling or maintenance." Third, Endorsement H6104A, second edition, adds language to the exclusion to expressly state that "rust, mold, fungus, or wet or dry rot" are never covered under this policy, however caused.
6. **ITEM 13. UNDER SECTION I - LOSSES NOT INSURED** IS CHANGED. The word "steam," and the phrase "or steam" is deleted from this exclusion. The definition of **water** has been changed to expressly include "steam."

7. THE EXCLUSION OF LOSSES FOR RUST, MOLD, OR WET OR DRY ROT IS BROADENED. Previously, item 13.d. under **SECTION I - LOSSES NOT INSURED** provided an exclusion against loss caused by or consisting of rust, mold, wet or dry rot, subject to the last three paragraphs of item 13. under **SECTION I - LOSSES NOT INSURED**. Endorsement H6104A, second edition, deletes reference to "rust, mold, or wet or dry rot" from item 13. and adds item 14. under **SECTION I - LOSSES NOT INSURED**. Item 14. expressly adds the word "fungus" to the exclusion so that loss caused by or consisting of "rust, mold, fungus, or wet or dry rot" is always excluded under your policy, however caused. Losses caused by or consisting of rust, mold, fungus, or wet or dry rot, now excluded under item 14., are no longer subject to the last three paragraphs of item 13.
8. NEW LANGUAGE IS ADDED TO ITEM 13. UNDER **SECTION I - LOSSES NOT INSURED**. Item 13.g. now excludes loss consisting of, or caused directly or indirectly by "pressure from the presence of (1) any trees, shrubs, plants or lawn, or (2) any root system from any trees, shrubs, plants or lawn," while previously, as item 13.h., the exclusion applied to "pressure from any root system to a foundation, patio, pavement, driveway, or fence."

Endorsement H6104A, second edition, makes these additional changes only to the Protector Plus Package Policy:

1. UNDER **SECTION I - LOSSES NOT INSURED**, ITEM 2., **EXAMPLE 3 OF THE WATER DAMAGE EXCLUSION** IS CHANGED BY THE ADDITION OF THE WORDS, "REGARDLESS OF THE CAUSE OR CAUSES OF SUCH WATER DAMAGE."
2. UNDER **SECTION I - LOSSES INSURED**, **Coverage C - Personal Property**, ITEM 13., THE PHRASE IN THE LAST SENTENCE OF THE FIRST PARAGRAPH, "BUT NOT FOR DETERIORATION, RUST, MOLD, WET OR DRY ROT DUE TO THE PRESENCE OF **WATER** OVER A PERIOD OF TIME", IS DELETED.

Endorsement H6104A, second edition, makes these additional changes only to the Special Form Homeowners Package Policy:

1. UNDER **SECTION I - LOSSES NOT INSURED**, ITEM 13. NOW SPECIFIES THAT "**EARTH MOVEMENT** IS NEVER COVERED UNDER THIS POLICY, HOWEVER CAUSED."
2. UNDER **SECTION I - LOSSES INSURED**, **Coverage C - Personal Property**, ITEM 13, THE PHRASE IN THE LAST SENTENCE OF THE FIRST PARAGRAPH, "BUT NOT FOR DETERIORATION, RUST, MOLD, WET OR DRY ROT DUE TO THE PRESENCE OF **WATER**," IS DELETED.

If you have any questions, please contact your Farmers® agent who will be happy to assist you.

ENDORSEMENT AMENDING DEFINITIONS, SECTION I - LOSSES INSURED  
AND SECTION I - LOSSES NOT INSURED

H6104A

2nd Edition

Under **DEFINITIONS**, item 18. **Water** is deleted in its entirety and replaced by the following:

18. **Water** - means water (H<sub>2</sub>O) alone, whether frozen or not or any liquid or sludge which contains **water**, whether or not combined with other chemicals or impurities. It includes, but is not limited to, snow, sleet, slush, ice, dampness, vapor, condensation, moisture, steam and humidity.

Under **DEFINITIONS**, item 19. **Water damage**, the following paragraph is added:

- (e) **water** which seeps, leaks, drips, escapes or is released out of any plumbing, heating or air conditioning system, or from within a household appliance, other than a sudden and accidental release of **water**.

Under **SECTION I - LOSSES INSURED**, Coverage C - **Personal Property**, item 13. is deleted in its entirety and replaced by the following:

13. Sudden and accidental discharge or overflow of **water** from within a plumbing, heating or air conditioning system, or from within a household appliance.

This peril does not include loss:

- a. to the system or appliance from which the **water** escaped;
- b. caused by or resulting from freezing;
- c. to personal property on the **residence premises** when the sudden and accidental discharge or overflow occurs away from the **residence premises**;
- d. caused by sudden and accidental discharge or overflow from roof gutters, downspouts, sump-pumps, sump-pump wells, leach fields, seepage pits, septic tanks, drainage channels or any other device used to drain **water** away from the **residence premises**.

Under **SECTION I - LOSSES NOT INSURED**, item 2. **Water damage** is deleted in its entirety and replaced by the following:

2. **Water damage.**

Acts or omissions of **persons** can cause, contribute to or aggravate **water damage**. Also **water damage** can occur naturally to cause loss or combine with acts or omissions of **persons** to cause loss. Whenever **water damage** occurs, the resulting loss is always excluded under this policy, however caused; except we do cover:

1. Direct physical loss to the dwelling or separate structures caused by **water damage** resulting from build-up of ice on portions of the roof or roof gutters.
2. Loss or damage to the interior of any dwelling or separate structures, or to personal property inside the dwelling or separate structures caused by **water damage** if the dwelling or separate structures first sustain loss or damage caused by a peril described under **SECTION I - LOSSES INSURED - Coverage C - Personal Property**.
3. Direct loss to the dwelling or separate structures or personal property if caused by fire or explosion resulting from **water damage**.

We never, under any circumstances, cover rust, mold, fungus, or wet or dry rot, even if resulting from exceptions 1, 2, or 3 above.

The following examples are set forth to help you understand this exclusion and are not meant to be all-inclusive.

**EXAMPLE 1:**

Rain **water** collects on or soaks into the ground surface. Because of faulty design, construction or maintenance of the **residence premises**, your neighbor's property or **water** diversion devices, the **water** causes loss to the dwelling, separate structures, or personal property. Such loss is not covered by this policy.

**EXAMPLE 2:**

A pipe under your sink breaks suddenly and accidentally, and **water** damages your wallpaper, carpeting and personal property. The **water** also gets under the dwelling or separate structures causing **earth movement** which results in cracking of the foundation and walls. The loss to the wallpaper, carpeting and personal property is covered, but the loss to the foundation and walls is not covered by this policy.

**EXAMPLE 3:**

**Water** which has backed up through sewers or drains, or **water** below ground level causes loss to the dwelling, separate structures or personal property. Such loss is not covered by this policy, regardless of the cause or causes of such **water damage**.

Under **SECTION I - LOSSES NOT INSURED**, item 4. is deleted in its entirety and replaced with the following:

4. Faulty, inadequate or defective planning, zoning, development, surveying, siting, design, specifications, workmanship, construction, grading, compaction, maintenance, repairs, or materials, whether used in construction, remodeling, maintenance or repair of part of or all of any property (including land, structures or any improvements) whether on or off the **residence premises**. However, we do cover ensuing loss by fire, explosion or sudden and accidental discharge of **water**. **Earth movement**, rust, mold, fungus, or wet or dry rot are never covered under this policy, however caused.

Under **SECTION I - LOSSES NOT INSURED**, item 13. is deleted in its entirety and replaced by the following :

13.

- a. wear and tear, marring, deterioration;
- b. mechanical breakdown;
- c. birds, insects, vermin, rodents, or domestic animals;
- d. smog, smoke from agricultural smudging or industrial operations;
- e. release, discharge or dispersal of contaminants, pollutants, insecticides, or hazardous gasses or chemicals;
- f. any settling, cracking, shrinking, bulging, or expansion of pavements, patios, foundations, walls, floors, roofs or ceilings;
- g. pressure from or presence of (1) any trees, shrubs, plants or lawn, or (2) any root system from any trees, shrubs, plants or lawn;
- h. soil conditions, including but not limited to corrosion, erosion, chemicals, compounds, elements, suspensions or gels in the soil or the formation of crystals in the soil.

If any of the perils listed in a-h above cause **water** to escape suddenly and accidentally from a plumbing, heating, or air conditioning system or household appliance, we cover loss not otherwise excluded to the dwelling or separate structure caused by **water**. If loss is caused by **water** not otherwise excluded, we will cover the cost of tearing out and replacing any part of the dwelling or separate structure necessary to repair the system or appliance. We do not cover the system or appliance from which the **water** escaped.

If any of the perils listed in a-h above cause a fire or explosion, we cover direct loss by such fire or explosion.

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## CONTENTS REPLACEMENT COST COVERAGE

**E6120**

2nd Edition

### PERSONAL PROPERTY

For an additional premium, insurance applicable to the following property is extended to include the full cost of repair or replacement without deduction for depreciation:

1. property covered under Coverage C - Personal Property.
2. ~~carpeting, domestic appliances, awnings, outdoor equipment and antennas, all whether or not attached to buildings.~~

Our liability for loss on any one item or items of personal property under this policy shall not exceed the smallest of the following amounts:

1. 400% of the actual cash value at time of loss.
2. Replacement cost at the time of loss.
3. The full cost of repair to personal property.
4. The limit of liability of Coverage C.
5. Any special Limits stated in the policy or Declarations.

Coverage provided by this endorsement is limited to the policy perils insured against.

Definition: "replacement cost" means the cost, at the time of loss, of a new article identical to the one damaged, destroyed or stolen. When the identical article is no longer manufactured or is not available, replacement cost shall mean the cost of a new article similar to that damaged or destroyed and which is of comparable quality and usefulness.

This endorsement shall not apply to:

1. Property, the age or condition of which has rendered it obsolete or unusable for the purpose for which it was originally intended.
2. Paintings, etchings, pictures, tapestries, art glass windows, or other bonafide works of art of rarity, historical value or artistic merit (such as valuable rugs, statuary, marbles, bronzes, antique furniture, rare books, antique silver, manuscripts, porcelains, rare glass or bric-a-brac).
3. Photographs or negatives, or to articles whose age or history contribute substantially to their value including but not limited to memorabilia, souvenirs, and collector's items.

The Company will not be liable for any loss under this endorsement unless and until actual repair or replacement is completed. The named insured may elect to disregard replacement cost in making claim hereunder but such election shall not prejudice the named insured's right to make further claim under this replacement cost provision within 180 days after loss.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

Dear Valued Customer:

When your residential property policy renews, the amount of Building Ordinance or Law Coverage will be reduced. Below is a brief explanation.

A municipality or other local government may change its building code requiring different construction materials and new techniques or demolition practices. Building Ordinance or Law Coverage provides for the additional costs to comply with local ordinance, law or regulation when repairing or replacing a covered structure damaged by a covered loss.

The efforts of local governments to improve citizen's safety and security by updating the building codes benefit everyone. However, there is a cost associated with meeting more stringent building codes. Farmers analyzed the costs of the Building Ordinance or Law Coverage and determined that we could no longer provide high limits at no additional charge.

Your current policy provides Building Ordinance or Law Coverage at limits equal to the amount of coverage on your residence (Coverage A - Dwelling) or other structures on the premises (Coverage B - Separate Structures) at no additional charge. With this renewal, the Building Ordinance or Law Coverage will be reduced to a limit equal to 10% of the Coverage A - Dwelling or Coverage B - Separate Structures amount. Revised Building Ordinance or Law Endorsement, 3rd Edition will provide this new limit at no additional charge. You may purchase higher coverage limits equal to 25% or 50%. If you would like to increase the coverage limit to 25% or 50%, please contact your Farmers® agent for assistance.

In addition, sections in the Extended Replacement Cost Endorsement #E6046 1st Edition (91-6046) or E6047 1st Edition (91-6047) are being eliminated because they duplicate the coverage provided in the new Building Ordinance or Law Coverage Endorsement. If your policy is endorsed with one of these optional coverages, a revised 2nd Edition endorsement is included with this renewal.

*Please carefully read the endorsements which are included with this renewal to determine the exact coverages provided.*

If you have any questions regarding this change, please contact your Farmers® agent who will be happy to assist you.

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**BUILDING ORDINANCE OR LAW COVERAGE  
ENDORSEMENT**

**E6044A**  
3rd Edition

Under Section I - Property, Losses Not Insured or Losses Not Covered, the following exclusion is deleted:

Enforcement of any ordinance or law regulating construction, repair or demolition of a building or other structure, unless endorsed on this policy.

Under Section I - Property, Additional Coverages, the following coverage is added:

**Building Ordinance or Law Coverage**

1. Our limit of liability for this coverage will not be more than 10 % of the total limit of insurance applying to the covered property under Coverage A - Dwelling or Coverage B - Separate Structures, shown in the declarations or premium notice, whichever is most recent at the time of loss. This endorsement applies to all coverages whether in the policy contract or subsequently added by endorsement.

- a. If there is a covered loss and you decide not to repair or replace the damaged building, we shall pay the actual cash value not to exceed the limits of insurance that apply to the damaged portion of the building. You have the option of making a claim within 180 days after the date of the loss for any additional payment on a repair cost basis if you repair or replace the damaged building.
  - b. This coverage does not increase the limit of insurance applying to the covered property under Coverage A - Dwelling or Coverage B - Separate Structures.
2. We will pay for the costs you actually and necessarily incur up to the applicable Building Ordinance or Law Limit of Insurance in making any change to the undamaged portion of the building or separate structure when such change is required to comply with an ordinance or law which is in force at the time of the construction, demolition, renovation, repair or replacement of the damaged property caused by a covered accidental direct physical loss.
3. We will pay for the increased costs you incur due to the enforcement of any ordinance or law in force at the time which requires or regulates:
  - a. The construction, demolition, remodeling, renovation, repair, or replacement of that part of a covered building or other structure damaged by a covered accidental direct physical loss.
  - b. The demolition and reconstruction of the undamaged part of a covered building or other structure which must be totally demolished due to damage caused by a covered accidental direct physical loss to another part of the covered building or other structure.
  - c. The remodeling, renovation, or replacement of the undamaged part of a covered building or other structure necessary to complete the remodeling, renovation, or replacement of that part of the covered building or other structure damaged by a covered accidental physical loss.
  - d. The legally required modifications to any undamaged portion of the structure which are caused by the enforcement of any building ordinance or law, zoning or land use ordinance if the law enforcement is directly caused by a covered accidental physical loss.
4. We do not cover:
  - a. the loss in value to any covered building or other structures due to the requirements of any ordinance; or
  - b. the cost to repair, replace, rebuild, stabilize or otherwise restore land.
  - c. the costs to comply with any ordinance or law which requires an insured or others to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize, or in any way respond to, or assess the effects of pollutants on any covered building or other structure.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

Dear Valued Customer:

Endorsement E6018, 1st Edition, Endorsement Amending Debris Removal Coverage and Pollution Exclusion currently attached to your policy is now replaced by endorsement E6108A, 2nd Edition.

Endorsement E6018A, 2nd Edition makes the following changes and reduces coverage previously provided in your policy:

1. Under **DEFINITIONS**, the definition of **Pollutant** or **pollutants** has been added. This definition has been expanded to include additional pollutants such as "biological" irritants, carbon monoxide, microorganisms or biological pathogens.
2. Under **Section I - Property - Additional Coverages**, under 1. Debris Removal, language has been deleted and replaced. New language now excludes expenses incurred by you or anyone acting on your behalf to:
  - a. extract **pollutants** from land or water or the dwelling, separate structures or personal property.
  - b. remove, restore or replace polluted land or water, dwelling, separate structures or personal property.
3. Under **Section I - Losses Not Insured - Applying to Coverage A and B - Dwelling and Separate Structures and Coverage C - Personal Property**, Item 3, Nuclear Hazard, the coverage for ensuing fire loss from nuclear hazard is now excluded.
4. Under **Section I - Losses Not Insured - Applying to Coverage A and B and Separate Structures and Coverage C - Personal Property**, Item 14, **Pollution** has been added.
5. Under **Section II - Liability - Exclusions - Applying to Coverage E - Personal Liability**, item 12, an additional exclusion has been added for Protector Plus policies which now excludes personal injury.
6. Under **Section II - Liability - Exclusions - Applying to Coverage E - Personal Liability**, the expanded definitions of bodily injury and property damage under lead poisoning currently found in E6018, 1st Edition has been deleted. The definitions of bodily injury and property damage currently found in your policy now apply.

Please carefully read this notice, endorsement E6018A, 2nd Edition and your policy to determine how the endorsement changes your policy and the exact coverages now provided.

**ENDORSEMENT ADDING DEFINITIONS; AMENDING  
DEBRIS REMOVAL COVERAGE; NUCLEAR HAZARD AND  
POLLUTION EXCLUSION**

**6018A**  
2nd Edition

When this endorsement is attached to your policy the following provisions apply:

Under **DEFINITIONS**, the following definitions are added:

**Pollutant** or **pollutants** mean any solid, liquid, gaseous, or thermal or biological irritant or contaminant, including, but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, carbon monoxide, microorganisms or biological pathogens. Biological pathogens includes bacteria, bacterium, viruses, or any part or by-product of bacteria, bacterium or viruses, including bacterial toxins. Waste includes materials to be recycled, reconditioned or reclaimed.

**Pollutant** or **pollutants** does not mean smoke, soot or fumes from a fire caused by one or more of the Section I - Losses Insured.

**SECTION I - PROPERTY - ADDITIONAL COVERAGES**

1. *Debris Removal* is deleted and replaced with the following:

1. *Debris Removal*. We will pay your reasonable expenses to remove debris caused by a covered loss to covered property under SECTION I - PROPERTY. However, we will not pay any expenses incurred by you or anyone acting on your behalf to:

- a. extract **pollutants** from land or water or the dwelling, separate structures or personal property.
- b. remove, restore or replace polluted land or water, dwelling, separate structures or personal property.

If the amount of loss, including debris removal expense exceeds the limit of insurance, we will pay up to an additional 5% of the limit of insurance on the damaged property.

**SECTION I - LOSSES NOT INSURED**

Item 3. under **SECTION I - LOSSES NOT INSURED - Applying to Coverage A and B - Dwelling and Separate Structures and Coverage C - Personal Property** is deleted and replaced with the following:

**3. Nuclear Hazard**

Acts or omissions of **persons** can cause, contribute to or aggravate **nuclear hazard**. Also, **nuclear hazard** can occur naturally to cause loss, or combine with acts or omissions of **persons** to cause loss. Whenever **nuclear hazard** occurs, the resulting damage is always excluded under this policy, however caused.

Acts or omissions of **persons** can cause, contribute to or aggravate the losses set forth in items 4-13 below. Also, these losses could occur naturally or combine with acts or omissions of **persons**. Whenever the losses listed in item 4-13 occur, the resulting loss is always excluded, however caused, unless specifically indicated otherwise.

**SECTION I - LOSSES NOT INSURED - Applying to Coverage A and B and Separate Structures and Coverage C - Personal Property.** The following is added:

14. **Pollution**. We do not cover loss consisting of, caused by, contributed to, aggravated by or resulting from discharge, dispersal, seepage, migration, release or escape of **pollutants**, whether on or off the **residence premises**.

Acts or omissions of **persons** can cause, contribute to or aggravate discharge, dispersal, seepage, migration, release or escape of **pollutants**, whether on or off the **residence premises**. Also discharge, dispersal, seepage, migration, release or escape of **pollutants**, whether on or off the **residence premises**, can occur naturally to cause a loss or combine with acts or omissions of persons to cause loss. Whenever discharge, dispersal, seepage, migration, release or escape of **pollutants**, whether on or off the **residence premises**, occurs, the discharge, dispersal, seepage, migration, release or escape of **pollutants**, whether on or off the **residence premises**, is always excluded under this policy, however caused.

We do not cover expenses incurred by you or anyone acting on your behalf to:

- a. extract **pollutants** from land or water, or the dwelling, separate structures or personal property.
- b. remove, restore or replace polluted land, water, dwelling separate structures or personal property.

## **SECTION II - LIABILITY - EXCLUSIONS**

**(For Special Form Homeowners Package Policy, Townhouse and Condominium Owners Package Policy and Broad Form Renters Package Policy)**

Under **SECTION II - EXCLUSIONS - Applying to Coverage E - Personal Liability** item 8. is deleted and replaced with the following:

8. A. We do not cover **bodily injury** or **property damage** resulting from the actual, alleged or threatened discharge, dispersal, seepage, release, migration or escape of **pollutants**:
  - (1) at or from the **insured location**;
  - (2) at or from any premises, site or location which is or was at any time owned or occupied by or rented or loaned to you or any **insured**;
  - (3) at or from any premises, site or location which is or was at any time used by or for you or any **person** acting on your behalf for the handling, storage, disposal, processing or treatment of any **pollutant**;
  - (4) which are or were at any time transported, handled, stored, treated, disposed of or processed as waste by or for you or any **person** or organization for whom you may be legally responsible; or
  - (5) at or from any premises, site or location on which you or any **person** or organization acting directly or indirectly on your behalf are performing operations to:
    - (a) transport any **pollutant** on or to any site or location used for the disposal, storage, handling, processing or treatment of **pollutants**; or
    - (b) test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **pollutants**.
- B. We do not cover any loss, cost or expense arising out of any:
  1. request, demand, or order that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of **pollutants**;
  2. claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of **pollutants**.

The following exclusion is added:

Any claim or suit for actual, alleged, threatened or feared **bodily injury** or **property damage** for which you or any insured may be held legally liable for the actual, alleged, threatened or feared **bodily injury** or **property damage** caused by lead or lead poisoning.

Lead poisoning includes, but is not limited to:

- a. actual **bodily injury** due to exposure to lead or products, objects or substances containing lead.
- b. accidental or deliberate ingestion of lead in any form or substance.

We have no duty to defend any claim or suit, whether or not false or fraudulent, for any actual, alleged, threatened or feared **bodily injury** or **property damage** by lead or lead poisoning.

## **SECTION II - LIABILITY - EXCLUSIONS**

**(For Protector Plus Homeowners Package Policy)**

Under **SECTION II - EXCLUSIONS - Applying to Coverage E - Personal Liability** item 12. is deleted and replaced with the following:

12. A. We do not cover **bodily injury**, **property damage** or personal injury resulting from the actual, alleged or threatened discharge, dispersal, seepage, release, migration or escape of pollutants:

- (1) at or from the **insured location**;
- (2) at or from any premises, site or location which is or was at any time owned or occupied by or rented or loaned to you or any **insured**;
- (3) at or from any premises, site or location which is or was at any time used by or for you or any **person** acting on your behalf for the handling, storage, disposal, processing or treatment of any **pollutant**;
- (4) which are or were at any time transported, handled, stored, treated, disposed of or processed as waste by or for you or any **person** or organization for whom you may be legally responsible; or
- (5) ~~at or from any premises, site or location on which you or any **person** or organization acting directly or indirectly on your behalf are performing operations to:~~
  - (a) transport any **pollutant** on or to any site or location used for the disposal, storage, handling, processing or treatment of **pollutants**; or
  - (b) test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **pollutants**.

B. We do not cover any loss, cost or expense arising out of any:

1. Request, demand, or order that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **pollutants**;
2. Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of **pollutants**.

The following exclusion is added:

Any claim or suit for actual, alleged, threatened or feared **bodily injury, property damage** or personal injury for which you or any insured may be held legally liable for the actual, alleged, threatened or feared **bodily injury, property damage** or personal injury caused by lead or lead poisoning.

Lead poisoning includes, but is not limited to:

- a. actual **bodily injury** or personal injury due to exposure to lead or products, objects or substances containing lead.
- b. accidental or deliberate ingestion of lead in any form or substance.

We have no duty to defend any claim or suit, whether or not false or fraudulent, for any actual, alleged, threatened or feared **bodily injury, property damage** or personal injury by lead or lead poisoning.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

**CHILD MOLESTATION EXCLUSION  
SECTION II - LIABILITY**

**E4207**

**1st Edition**

We do not cover actual or alleged injury or medical expenses caused by or arising out of the actual, alleged, or threatened molestation of a child by:

1. any **insured**; or
2. any employee of any **insured**; or
3. any volunteer, **person** for hire, or any other **person** who is acting or who appears to be acting on behalf of any **insured**.

Molestation includes but is not limited to any act of sexual misconduct, sexual molestation or physical or mental abuse of a minor.

We have no duty to defend or settle any molestation claim or suit against any **insured**, employee of any **insured**, or any other **person**.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.



Dear Valued Customer:

Endorsement E4040A, 1st Edition, has been added to your policy. This endorsement adds an additional exclusion to your policy under Section II - Exclusions, thus reducing coverage provided by the policy. Endorsement E4040A, 1st Edition, applies to both the Protector Plus Homeowners Package Policy and the Special Form Homeowners Package Policy. Under the Protector Plus Homeowners Package Policy, the endorsement adds exclusion 12 to Section II - Exclusions - Applying to Coverage E and F - Personal Liability and Medical Payments to Others. This new exclusion eliminates any coverage under Section II of your policy for bodily injury, property damage or personal injury caused by mold or fungus, including any bodily injury, property damage or personal injury contributed to or aggravated by mold or fungus. This includes any costs for removing or remediating mold or fungus, or any claims concerning disclosures or warnings or advice in any way associated with mold or fungus.

Under the Special Form Homeowners Package Policy, the endorsement adds exclusion 13 to Section II - Exclusions - Applying to Coverage E and F - Personal Liability and Medical Payments to Others. This new exclusion eliminates any coverage under Section II of your policy for bodily injury or property damage contributed to or aggravated by mold or fungus, including any bodily injury or property damage contributed to or aggravated by mold or fungus. This includes any costs for removing or remediating mold or fungus, or any claims concerning disclosures or warnings or advice in any way associated with mold or fungus.

Please take a moment to carefully read the attached endorsement and your policy to determine how the endorsement affects your policy and the exact coverages now provided .

If have any questions, please contact your Farmers® agent who will be happy to assist you.

**ENDORSEMENT**  
**AMENDING SECTION II - EXCLUSIONS**

**E4040A**  
**1st Edition**

(For Protector Plus Homeowners Package Policy):

Under **SECTION II - EXCLUSIONS - Applying To Coverage E and F - Personal Liability and Medical Payments to Others**, the following item, Exclusion 12., is added:

12. arises out of, results from, is caused by, is contributed to, or is aggravated by, whether directly or indirectly, rust, mold, fungus, or wet or dry rot.

This includes:

- (a) the cost of testing, monitoring, abating, mitigating, removing, remediating or disposing of rust, mold, fungus, or wet or dry rot;
- (b) any supervision, instruction, disclosures, or failures to disclose, recommendations, warnings, or advice given, or which allegedly should have been given, in connection with **bodily injury, property damage** or personal injury arising out of, resulting from, caused by, contributed to, or aggravated by, whether directly or indirectly, rust, mold, fungus, or wet or dry rot, or the activities described in Exclusion 12., Subpart(a) above; and
- (c) any obligation to share with or repay another who must pay damages because of injury or damage of the type described in Exclusion 12. This applies regardless of any other cause that contributed, directly or indirectly, concurrently or in any sequence to the **bodily injury, property damage** or personal injury.

(For Special Form Homeowners Package Policy):

Under **SECTION II - EXCLUSIONS - Applying To Coverage E and F - Personal Liability and Medical Payments to Others**, the following item, Exclusion 13., is added:

13. arises out of, results from, is caused by, is contributed to, or is aggravated by, whether directly or indirectly, rust, mold, fungus, or wet or dry rot.

This includes:

- (a) the cost of testing, monitoring, abating, mitigating, removing, remediating or disposing of rust, mold, fungus, or wet or dry rot;
- (b) any supervision, instruction, disclosures, or failures to disclose, recommendations, warnings, or advice given, or which allegedly should have been given, in connection with **bodily injury** or **property damage** arising out of, resulting from, caused by, contributed to, or aggravated by, whether directly or indirectly, rust, mold, fungus, or wet or dry rot, or the activities described in Exclusion 13., Subpart(a) above; and
- (c) any obligation to share with or repay another who must pay damages because of injury or damage of the type described in Exclusion 13. This applies regardless of any other cause that contributed, directly or indirectly, concurrently or in any sequence to the **bodily injury** or **property damage**.

This endorsement is part of your policy. It supersedes and controls anything to the contrary. It is otherwise subject to all other terms of the policy.

## NOTICE OF INFORMATION PRACTICES MONTANA

You have certain rights under state and federal law with respect to the privacy of information we obtain about you when you engage in insurance transactions involving insurance primarily for personal, family or household use. You will receive, or already may have received, a notice entitled "Farmers® Privacy Notice." Your state gives you additional protections that are explained in this notice. The Farmers® Privacy Notice, in combination with this notice, explains our information practices with respect to applicants, policyholders and former policyholders.

### COLLECTION OF INFORMATION

Much of the information we need comes from you when you apply for insurance. However, we may need additional information or may need to verify information you've given us. We often employ the common insurance industry practice of asking an outside source, called a "consumer reporting agency" or "insurance support organization," to provide us with consumer reports. On occasion, that source may contact you, another adult member of your household or a neighbor either by phone or in person to provide us with a report. As the Named Insured, you have the right to request that you or your spouse be contacted for a personal interview. If you choose this option, we will make every effort to comply with your request.

We may also obtain information from consumer reporting agencies and other sources for purposes other than underwriting, such as when processing claims, investigating potential fraud, or servicing your account. For example, we may obtain financial information relating to a particular bank account if you desire to set up an electronic funds transfer payment. In addition, we may obtain information relating to health and employment during the processing of a claim.

In addition to the foregoing, we collect the following types of information about you:

- Personal information such as your age, personal habits and characteristics
- Information about your driving experiences, such as use of your vehicle(s), mileage, prior accidents and driving violations, and prior arrests or convictions.
- Information about your real and personal property, such as construction type, square footage, heating, other physical characteristics of the property, and care and maintenance of the property.
- Information we receive from a consumer reporting agency or insurance support organization, such as motor vehicle records, credit report information, claims history and previous insurance experience.

### WHAT WE DO WITH INFORMATION WE COLLECT ABOUT YOU

We use the information we collect about you, as described above, to perform insurance functions, including underwriting and servicing your policy, processing claims and for other purposes permitted by state and federal law. We may disclose this information, as permitted by law, and without your prior authorization, to the following types of parties:

1. Persons, including insurance support organizations, other insurers, or non-affiliated parties, who perform insurance functions for us.
2. Persons, including insurance support organizations or other insurers, for detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction.
3. Insurance regulatory, law enforcement, or other governmental authority.

4. Affiliates to perform audits, to perform an insurance function, and to market insurance or other financial products or services, or for any other purpose permitted by law. (For more information about the information we share with affiliates, see the "Sharing Information with Affiliates" and "Your Choice" sections of the Farmers® Privacy Policy.)
5. A medical professional or medical care institution, to verify insurance coverage or benefits, inform an individual of a medical problem of which the individual may not be aware, conduct an operations or services audit, or determine the reasonableness or necessity of medical services.
6. Other non-affiliated third persons, including (a) persons conducting actuarial or research studies, (b) professional peer review organizations, (c) a party to a proposed sale, transfer, merger or consolidation of all or part of the company underwriting your policy, and (d) a group policyholder to report claims experience or conduct an audit of our operations, but only as necessary to conduct the review or audit.

Our disclosure of nonpublic personal information about you for marketing purposes is more limited under Montana law than as described in Farmers® Privacy Notice. We may disclose information to companies that perform marketing services on our behalf and to other licensees and our affiliates that market insurance or other financial products or services. Such disclosures do not include medical information about you.

Information obtained from a report prepared by an insurance-support organization may be retained by that organization and disclosed to other persons who use these reports, but only to the extent permitted by federal and state law.

You have the right, upon written request to Farmers, to learn of any disclosures we have made of medical record information, including the name, address and affiliate of any person that received or examined medical information during the last three years, the date of such receipt or examination, and to the extent practicable, a description of the information disclosed.

#### **ACCESS TO AND CORRECTION OF PERSONAL INFORMATION**

You have the right to know the contents of any recorded personal information about you that is in our records, including any investigative consumer report we have obtained. You also have the right to receive a copy of this information and to request that we correct, amend or delete any of the information that you feel is in error. To exercise either of these rights, you must send us a written request. If you request correction, amendment or deletion of any erroneous information, we will review the recorded personal information and your written request. If the requested changes are in order, we will make the appropriate changes in our records. If we cannot make the change, you then have the option of filing a statement of the reasons why you disagree with our decision, which will be included in our policy records so anyone reviewing the disputed personal information will have access to it. Any future disclosure made by us, if any, will also include your filed statement. We will also provide a copy to anyone designated by you who may have received recorded personal information from us in the past two years. In any case, whether we can or cannot comply with your request to correct recorded personal information, we will advise you of our decision in writing.

These rights do not extend to information collected in connection with or in reasonable anticipation of a claim, or civil or criminal proceeding, or to specific items of privileged information when an applicant or policyholder is suspected of fraud, material misrepresentation or material nondisclosure.

Pursuant to the Fair Credit Reporting Act, we are notifying you that an investigation may be made as to character, general reputation, personal characteristics and mode of living, whichever are applicable. Additional information regarding the nature and scope of any such investigation requested will be furnished to you, upon your written request made within a reasonable time after you receive this notice.

You may contact your Agent for the appropriate service center address where you can direct your written inquiry.

## KEEPING YOU INFORMED

As required by law, we will notify you of our information practices regularly. We reserve the right to modify our practices at any time, when permitted by law.

If, after reading this, you have any further questions, please feel free to contact us or your Agent.

This notice is sent on behalf of the Farmers Insurance Group of Companies, whose members include, but are not limited to:

Farmers Insurance Exchange, Fire Insurance Exchange, Truck Insurance Exchange, Mid-Century Insurance Company, Farmers New Century Insurance, Farmers Insurance Company, Inc. (A Kansas Corp.), Farmers Insurance Company of Arizona, Farmers Insurance Company of Idaho, Farmers Insurance Company of Oregon, Farmers Insurance Company of Washington, Farmers Insurance of Columbus, Inc., Farmers Texas County Mutual Insurance Company, Illinois Farmers Insurance Company, Mid-Century Insurance Company of Texas, Texas Farmers Insurance Company, Civic Property and Casualty Company, Exact Property and Casualty Company, and Neighborhood Spirit Property and Casualty Company.

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**FARMERS**

July 31, 2008

Send all correspondence to:  
Farmers National Document Center  
P.O. Box 268994  
Oklahoma City, OK 73126-8994  
Fax: (877) 217-1389  
Email: [claimsdocuments@farmersinsurance.com](mailto:claimsdocuments@farmersinsurance.com)

Cynthia Henderson  
1239 Hwy 282 Mcr  
Clancy, MT 59634

RE: Insured: Cynthia Henderson  
Claim Unit Number: 1010087773-1-1  
Policy Number: 0914411639  
Loss Date: 10/21/2006

Dear Ms. Henderson:

Thank you for allowing me to assist you with your claim for a break in on October 21, 2006. I am pleased to provide you with the enclosed claim payment check. This letter outlines my findings and explains the basis for the payment. I have enclosed the estimate used to value your claim. We appreciate your business and hope to continue serving your insurance needs in the future.

	Building
Estimate for Damages	\$170.00
Less Deductible-used on contents	\$ 0.00
Payment	\$170.00

Your policy provides for replacement cost settlement on certain property. In that we have not deducted any depreciation from the estimate for damages, you are being paid the full replacement cost estimate.

This payment is for the damage to the front door when your home was broken into. You have promised a video tape that shows the condition of the home on October 21, 2006, but it has never been presented to us. Please submit this video to us for further consideration of any building damage associated with the October 21, 2006 loss discovery date.

The policy provides that after a loss it is your duty to protect the insured property from further damage. You should take all appropriate steps to make repairs and prevent further damage.

By the writing of this letter, we do not waive any of our rights nor any of the terms, conditions, or provisions of the insurance policy, all of which are expressly retained and reserved. Further, any activity on our part by way of investigation, determination of damage, or emergency advance payments to you, does not constitute a waiver of our rights. We understand you are retaining your rights as well.

9T2W6WZR1

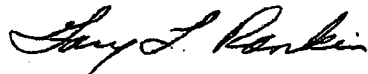
**EXHIBIT**

**2**

If after reviewing this letter and reading the policy language, you believe there is additional information that would apply to your claim, please provide us with those facts for consideration. I am closing your file at this time.

I am committed to providing my customers with excellent service. I understand you may have questions regarding your claim. Please do not hesitate to call me to discuss any questions you may have at (406) 459-7880.

Sincerely,  
Fire Insurance Exchange

A handwritten signature in cursive script, reading "Gary L. Rankin".

Gary L. Rankin  
Field Claims Representative





FARMERS

June 26, 2008

Send all correspondence to:  
Farmers National Document Center  
P.O. Box 268994  
Oklahoma City, OK 73126-8994  
Fax: (877) 217-1389  
Email: [claimsdocuments@farmersinsurance.com](mailto:claimsdocuments@farmersinsurance.com)

Ms. Martha Greshock  
910 7th Ave  
Havre, MT 59501-4528

RE: Insured: Cynthia Henderson  
Claim Unit Number: 1010087773-1-2  
Policy Number: 0914411639  
Loss Date: 10/21/2006

Dear Ms. Henderson:

Thank you for allowing me to assist you with your claim for theft. I am pleased to provide you with the enclosed claim payment check. This letter outlines my findings and explains the basis for the payment. We appreciate your business and hope to continue serving your insurance needs in the future.

	Contents
Estimate for Damages	\$47,684.78
Less Recoverable Depreciation	\$23,422.72
Actual Cash Value	\$24,262.06
Less Deductible-applied to over limit amount	\$ 0.00
Less Amount Over Limits	\$ 1,829.82
Actual Cash Value Payment	\$22,432.24

Your policy provides for replacement cost settlement on certain property. However, your policy further provides that until you repair or replace the damaged property the loss will be paid at its Actual Cash Value, subject to coverage limits and the policy deductible. Your policy allows 180 days from the date of loss to redeem any recoverable depreciation withheld on your claim, however, as a courtesy, the time limit has been extended to 365 days from the date of your Actual Cash Value payment above. Please mail, fax or email your supporting documentation to the address listed above clearly noting your claim number on each page.

Note that the estimate for damage also includes an allowance for contractor overhead and profit that you may incur if you hire a general contractor to complete or manage the repairs.

We intend to pursue reimbursement from the responsible party that caused or contributed to this loss. We will pursue recovery of the amounts paid including your deductible. If we receive any payment, we will reimburse your deductible on a proportionate basis of the total amount recovered.

T5B7PW\$01

**EXHIBIT**

**3**

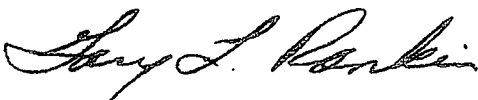
The policy provides that after a loss it is your duty to protect the insured property from further damage. You should take all appropriate steps to make repairs and prevent further damage.

By the writing of this letter, Fire Insurance Exchange does not waive any of our rights nor any of the terms, conditions, or provisions of the insurance policy, all of which are expressly retained and reserved. We understand you are retaining your rights as well.

If after reviewing this letter and reading the policy language, you believe there is additional information that would apply to your claim, please provide us with those facts for consideration. I am closing your file at this time.

I am committed to providing my customers with excellent service and trust that I have done so. I understand you may have questions regarding your claim. Please do not hesitate to call me to discuss any questions you may have at (406) 459-7880.

Sincerely,  
Fire Insurance Exchange

A handwritten signature in cursive script, reading "Gary L. Rankin".

Gary L Rankin  
Field Claims Representative

Cc: Cynthia Henderson

Enclosure: Supporting Documents

1 MIKE WINSOR  
Special Assistant Attorney General  
2 Special Assistant Lewis and Clark County Attorney  
3 Office of the Commissioner of Securities and  
Insurance, Montana State Auditor  
4 840 Helena Avenue  
Helena, MT 59601  
5 (406) 444-2004  
6 Attorney for the State of Montana  
7

8  
9 **MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY**

10 THE STATE OF MONTANA,

11 Plaintiff,

12 vs.

13 CYNTHIA MAE HENDERSON,

14 Defendant.

Case No. ADC-2012-122

Hon. Mike Menehan

**AFFIDAVIT TO SUPPORT REQUEST  
FOR RESTITUTION**

15 STATE OF MONTANA )  
16 :ss.  
17 County of Lewis and Clark )

18 After being first duly sworn, GARY RANKIN, the undersigned, deposes and states:

19 1. I am a Special Claims Representative for Fire Insurance Exchange, and have personal  
20 knowledge regarding the claim at issue in this matter.

21 2. Fire Insurance Exchange, upon whose behalf I am acting, is a "person" as defined in  
22 Mont. Code Ann. § 33-1-202(3).  
23

24 3. Fire Insurance Exchange is the "victim," as defined by Mont. Code Ann. § 46-18-  
25 243, of the offense charged in this case because it is a person who suffered a pecuniary loss of  
26 property as a result of the commission of the offense consisting of money that Fire Insurance  
27  
28

1 Exchange could recover against the offender in a civil action arising out of the facts or events  
2 constituting the Defendant's criminal activities.

3 4. As a result of the offense committed by the Defendant, Fire Insurance Exchange  
4 sustained the following pecuniary losses:  
5

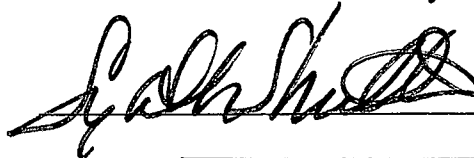
<u>Description of Pecuniary Loss</u>	<u>Replacement Value</u>	<u>Documentation Yes/No</u>
Actual Cash Value claim payment for purported loss	\$22,432.24	Yes
Claim payment for purported vandalism	\$ 170.00	Yes
<b><u>TOTAL PECUNIARY LOSS</u></b>	<b>\$22,602.24</b>	

16  
17 5. The information contained in this affidavit, including any documentation submitted in  
18 support, is true and correct to the best of my knowledge.  
19

20 DATED this 6<sup>th</sup> day of September, 2013.

21  
22   
23 GARY RANKIN  
24 Affiant

25 SUBSCRIBED and SWORN to before me this 6<sup>th</sup> day of September, 2013, by  
26 Gary Rankin.

27   
28

